

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1462 of 2023

ORDER:

Heard Sri Srinath Reddy, learned counsel, representing Sri Nageshwar Rao Pujari, learned counsel on record for the petitioner, as well as the learned Additional Public Prosecutor who is representing the respondent-State.

2. Seeking post-arrest bail, the present Criminal Petition is filed under Section 439 Cr.P.C. on behalf of the petitioner, who is arrayed as accused No.1 in Crime No.48 of 2022 of Market Police Station, Hyderabad.

3. Making his submission, learned counsel for the petitioner contends that the petitioner was arrested on 16.01.2023 and was remanded to judicial custody. Thus, the petitioner is in judicial custody since more than 30 days. Learned counsel submits that this is a case where Police ought to have issued notice under Section 41-A Cr.P.C. without effecting arrest, however, they did not do so. Learned counsel further submits that the petitioner has not committed any offence whatsoever as alleged.

4. On the other hand, the submission of the learned Additional Public Prosecutor is that the petitioner has committed offences punishable under Sections 417 and 420 IPC and the petitioner hails from the State of Odisha and the petitioner has committed similar offences earlier also and thus, there are criminal antecedents.

5. As per the contents of the complaint, the petitioner along with another approached the shop of the defacto complainant and took a gold necklace temple jewellery weighing about 35 grams and in exchange, she gave a hallmark 916 KDM chain and as it was Sunday, the said chain could not be checked. When the said gold chain was checked on the next day, it was found to be fake and though the defacto complainant tried to contact the petitioner through the contact number given, he could not get any positive response.

6. However, when the contents of the Remand Report are gone thorough, as rightly projected by the learned counsel for the petitioner, the narration is totally different.

7. As per the contents of the Remand Report, the petitioner along with another went to the gold shop of the

defacto complainant and while observing gold chains, she exchanged a original gold chain with the duplicate gold chain and fled away with it.

8. However, no definite conclusion can be arrived at as of now, as the case is still under investigation. Taking into consideration the fact that the petitioner is in judicial custody since more than 30 days and as material part of investigation is completed, as submitted by the Learned Additional Public Prosecutor, this Court is of the view that the request of the petitioner can be honoured, however conditionally.

9. Resultantly, this Criminal Petition is allowed with the following conditions:-

- (i) The petitioner/accused No.1 shall be enlarged on bail on her executing a personal bond for Rs.1,00,000/- (Rupees One lakh thousand only) with two sureties for the like sum each to the satisfaction of the Court concerned. The sureties are directed to submit their two latest passport size photographs at the time of furnishing solvency. One such photograph is ordered to be pasted in the Surety Register against the name

of the surety. The other photograph shall be kept in the case record concerned.

(ii) In case, the petitioner/accused No.1 holds a passport, she is directed to surrender the same, if it is not seized by now.

(iii) The petitioner/accused should No.1 not involve in any unlawful activity.

(iv) The petitioner/accused No.1 should afford all assistance for proper investigation of the case.

(v) The petitioner/accused No.1 should not cause the evidence of the offence disappear.

(vi) The petitioner/accused No.1 should not tamper with the evidence in any manner.

(vii) The petitioner/accused No.1 should not by way of inducement, threat or promise, dissuade any person who is acquainted with the facts of the case, from disclosing such facts to the Court or to the Police Officer.

(viii) The petitioner/accused No.1 should ensure her presence whenever required by the Court or Police.

(ix) The petitioner/accused No.1 shall not leave India without previous permission of the court concerned.

(x) The petitioner/accused No.1 shall report before the Station House Officer, Market Police Station, Hyderabad, on every Monday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) The petitioner/accused Market Police Station, Hyderabad shall file an affidavit before the court concerned disclosing the following particulars:-

- (1) Contact number
- (2) Mail address
- (3) Residential particulars.

In case, there is any change in the aforementioned details, the petitioner shall intimate the court concerned by giving a fresh affidavit duly mentioning the change. She shall continue to do so till filing of the final report.

Any deviation of the above conditions would entitle the respondent to take appropriate steps for cancellation of the bail granted.

Dr. JUSTICE CHILLAKUR SUMALATHA

20.02.2023
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