

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1547 of 2023

ORDER:

Heard Ms. Srilekha Pujari, learned counsel for the petitioner, as well as learned Additional Public Prosecutor who is representing the respondent-State.

2. Seeking the Court to enlarge the petitioner, who is arrayed as accused No.1 in Crime No.193 of 2022 of Gadwal Rural Police Station, Jogulamba-Gadwal District, on bail, this Criminal Petition is filed under Section 439 Cr.P.C.

3. Stating that the petitioner has not committed any offence whatsoever, learned counsel for the petitioner submits that the petitioner is in judicial custody since 47 days and indeed, the petitioner is innocent. Learned counsel submits that in the complaint given, it is narrated that the deceased-Totla Krishnanna Saraswathi committed suicide due to unbearable stomach ache, but later a false case is foisted against the petitioner. Learned counsel also states that as there is no instigation or abetment to commit suicide, Section 306 IPC will not come into play.

4. On the other hand, the submission of the learned Additional Public Prosecutor is that though initially, complaint was given that the deceased-Totla Krishnanna Saraswathi committed suicide due to unbearable stomach ache, thereafter, the husband of the deceased-Totla Krishnanna Saraswathi found a video recording in the mobile phone of the deceased-Totla Krishnanna Saraswathi, in which the deceased-Totla Krishnanna Saraswathi clearly narrated that she took loan from the petitioner and accused No.2 and thereafter, the petitioner and accused No.2 started harassing her to repay the same and also assaulted her and therefore, she is committing suicide. Learned Additional Public Prosecutor also states that fourteen (14) material witnesses were examined till now.

5. Thus, by the submissions made, it is clear that the petitioner is in judicial custody since more than 40 days and that material part of investigation is completed. Which version is true i.e., whether the version narrated in the complaint or the version that was found in the video recording is a matter to be decided by the investigating agency after due investigation. However, considering the fact

of completion of material part of investigation, this Court is of the view that the request of the petitioner can be honoured, however conditionally.

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

- (i) The petitioner/accused No.1 shall be enlarged on bail on his executing a personal bond for Rs.50,000/- (Rupees Fifty 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, he is directed to surrender the same, if it is not seized by now.
- (iii) The petitioner/accused No.1 should 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 his 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, Gadwal Rural Police Station, Jogulamba-Gadwal District, on every Monday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) The petitioner/accused No.1 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. He 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

22.02.2023
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