

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1682 of 2023

ORDER:

Heard Sri C.Hari Preeth, learned counsel for the petitioner, as well as learned Additional Public Prosecutor who is representing respondent No.1-State. Despite service of notice upon respondent No.2, none appears.

2. Seeking pre-arrest bail, the present Criminal Petition is filed under Section 438 Cr.P.C. on behalf of the petitioner, who is arrayed as accused in Crime No.33 of 2023 of Konaraopet Police Station, Rajanna-Sircilla District.

3. The matrix of the case, as could be perceived through the contents of the complaint, is that the husband of the defacto complainant approached the petitioner, who is an R.M.P. doctor, complaining stomach ache. The petitioner, without any authorization from the Government, administered some intravenous injection to the husband of the defacto complainant. On that, he fell unconscious with spume coming from his mouth. He was shifted to

Government Hospital, Sircilla, where the doctors declared him dead.

4. Stating that the petitioner has not committed any offence and that, as a doctor, the petitioner tried to relieve the husband of the defacto complainant from stomach ache, learned counsel for the petitioner contends that the petitioner is aged about 67 years and he is in practice since more than 30 years. Learned counsel further submits that the treatment given by the petitioner did not result in the death of the husband of the defacto complainant and the petitioner undertakes to abide by any of the terms and conditions imposed by this Court including stoppage of practice till the completion of investigation and therefore, anticipatory bail may be granted.

5. The submission of the learned Additional Public Prosecutor is that in the light of the treatment given by the petitioner, the husband of the defacto complainant died.

6. Though in the First Information Report, it is narrated that the case falls within the ambit of Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, in fact, the case does not fall within the ambit of the said Act. Even the learned Additional Public Prosecutor did not bring to the notice of this Court any ingredients in the statements of witnesses to show that the case facts fall within the ambit of the said Act. However, as the investigation is still pending, no definite conclusion can be arrived at.

7. The allegation that is levelled against the petitioner is also that he committed offence punishable under Section 304 Part-II IPC.

8. During the course of submission, learned counsel for the petitioner stated that the petitioner has only administered Penta-D injection to relieve the husband of the defacto complainant from gastric trouble. The fact whether the petitioner is entitled to administer such an injection that too, intravenous has to be investigated and decided by the investigating agency with the aid of the competent Medical Personnel.

9. Having considered the submission made by the learned counsel for the petitioner and as six material witnesses were already examined, 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.

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

(i) The petitioner/accused is directed to surrender before the Court concerned within ten (10) days. On such surrender, he shall be enlarged on bail on his executing a personal bond for Rs.75,000/- (Rupees Seventy Five 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 holds a passport, he is directed to surrender the same.

(iii) The petitioner/accused should not involve in any unlawful activity.

(iv) The petitioner/accused should afford all assistance for proper investigation of the case.

(v) The petitioner/accused should not cause the evidence of the offence disappear.

(vi) The petitioner/accused should not tamper with the evidence in any manner.

(vii) The petitioner/accused 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 should ensure his presence whenever required by the Court or Police.

(ix) The petitioner/accused shall not leave India without previous permission of the court concerned.

(x) The petitioner/accused shall report before the Station House Officer, Konaraopet Police Station, Rajanna-Sircilla District, on every Sunday and Thursday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) The petitioner/accused 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.

(xii) Having regard to the submission made by the learned counsel for the petitioner that the petitioner undertakes to abstain from continuing his practice as Registered Medical Practitioner till the completion of investigation, the petitioner is hereby abstained from continuing his practice till the completion of investigation and filing of final report. However, in case, the Medical Council or the relevant authority passes any order in this regard either permitting the petitioner to continue his practice or otherwise, this condition would be subject to such order passed by the competent authority.

(xiii) In case, no such order is passed, the petitioner shall not continue his practice as Medical Practitioner till the completion of investigation and filing of 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

28.02.2023
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