

HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1884 of 2023

ORDER:

1. Seeking pre-arrest bail, the present Criminal Petition is filed under Section 438 Cr.P.C.

2. Heard Sri G.Dinesh Patil, learned counsel for the petitioners as well as the learned Additional Public Prosecutor who is representing the Respondent-State.

3. The matrix of the case as could be perceived through the contents of the complaint is that the defacto complainant is the sister of one Reshma Begum. There was business rivalry between the husband of Reshma Begum by name Abdul Anwar on one hand and Accused No.1 and others on the other hand. In the light of those disputes, Accused No.1 and others kidnapped the said Abdul Anwar, his wife-Reshma Begum and their children.

4. Stating that the petitioners are not named in the First Information Report and they have nothing to do with the alleged incident, learned counsel for the petitioners submits that basing on the confessional statements of other accused,

the petitioners are implicated and as they are innocent, anticipatory bail may be granted.

5. Vehemently opposing the submission thus made, the learned Additional Public Prosecutor submits that the name of the 3rd petitioner is mentioned in the complaint itself and further, the 3rd petitioner is arrayed as Accused No.5 and the contents of First Information Report reveals the said fact. Record discloses justification in the said submission. So far as the petitioner Nos.1 & 2 are concerned, the submission of the learned Additional Public Prosecutor is that these petitioners are arrayed as Accused Nos.9 & 10 and the involvement of these petitioners is yet to be culled out through proper investigation. Learned Additional Public Prosecutor also states that thirteen (13) witnesses are examined till now.

6. Having considered the gravity in the allegation and the submission made by the learned Additional Public Prosecutor, this Court is of the view that the request of the petitioner No.3/Accused No.5 cannot be considered. So far as the petitioner Nos.1 & 2 are concerned, this Court considers desirable to honour their request conditionally.

7. In the result, the Criminal Petition is allowed- in- part.
8. The Criminal Petition, so far as Petitioner Nos.1 & 2 are concerned, is allowed with the following conditions:
- (i) The petitioner Nos.1 & 2 are directed to surrender before the concerned Court within ten (10) days. On such surrender, they shall be enlarged on bail on their executing a personal bond for Rs.50,000/- (Rupees Fifty Thousand only) each with two sureties for 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) The petitioner Nos.1 & 2 shall report before the Station House Officer, Nirmal Town Police Station, on every Monday between 10.30 a.m. and 12:00 p.m. till filing of final report.
 - (iii) The petitioner Nos.1 & 2 should not involve in any unlawful activity.
 - (iv) The petitioner Nos.1 & 2 should afford all assistance for proper investigation of the case.

- (v) The petitioner Nos.1 & 2 should not cause the evidence of the offence disappear.
- (vi) The petitioner Nos.1 & 2 should not tamper with the evidence in any manner.
- (vii) The petitioner Nos.1 & 2 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) In case the petitioner Nos.1 & 2 hold a passport, they shall surrender the same.
- (ix) The petitioner Nos.1 & 2 should ensure their presence whenever required by the Court or Police.
- (x) The petitioner Nos.1 & 2 shall not leave India without previous permission of the Court concerned.
- (xi) The petitioner Nos.1 & 2 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 of the aforementioned details, the petitioner Nos.1 & 2 shall intimate the Court concerned by giving fresh affidavits duly mentioning the change. They 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 pre-arrest bail granted.

9. The Criminal Petition, so far as petitioner No.3/Accused No.5 is concerned, stands dismissed.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date:28.02.2023
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