

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1765, 1855 and 1768 of 2023

COMMON ORDER:

Heard Sri M.A.K.Mukheed, learned counsel for the petitioners, as well as the learned Additional Public Prosecutor who is representing the respondent-State.

2. Criminal Petition No.1765 of 2023 is filed on behalf of accused No.4, Criminal Petition No.1855 of 2023 is filed on behalf of accused No.5 and Criminal Petition No.1768 of 2023 is filed on behalf of accused No.12 in Crime No.2 of 2023 of Nizamabad VI Town Police Station, Nizamabad District, all under Section 439 Cr.P.C. seeking the Court to enlarge them on bail.

3. Stating that accused Nos.4, 5 and 12 have not committed any offences whatsoever, learned counsel for the petitioners submits that the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders, Land Grabbers, Spurious Seed Offenders, Insecticide Offenders, Fertiliser Offenders, Food Adulteration Offenders, Fake Document Offenders, Scheduled Commodities Offenders, Forest

Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders and White Collar or Financial Offenders Act, 1986, was invoked twice against the deceased-Ibrahim Choush @ Jangle Ibbu (hereinafter referred to as “the deceased” for brevity) and totally 54 criminal cases stood pending against him. Learned counsel also submits that though the petitioners are innocent, they are in judicial custody since two months and therefore, they may be enlarged on bail.

4. Vehemently opposing the submission thus made, learned Additional Public Prosecutor contends that the petitioners along with other accused hatched a plan and invited the deceased to a birthday party, provoked him, thereafter indulged in rivalry and finally, stabbed him to death. Learned Additional Public Prosecutor further submits that sufficient material is collected to show that accused No.4 picked up a boulder and threw it on the head of the deceased and that accused No.5 along with accused Nos.6 to 11 caught hold of the deceased and facilitated accused No.1 to stab the deceased with a knife.

5. The contents of Remand Case Diary reveals justification in the submission made by the learned Additional Public Prosecutor.

6. So far as accused No.12 is concerned, no specific overt acts are projected against him. Also, there is no denial that accused No.12 is in judicial custody since two months.

7. Having considered the nature of the case and the allegations levelled, this Court is of the view that accused Nos.4 and 5 are not entitled for bail. So far as accused No.12 is concerned, this Court is of the view that the relief sought for can be granted, however conditionally.

8. Resultantly, Criminal Petition Nos.1765 and 1855 of 2023 stand dismissed. Criminal Petition No.1768 of 2023 is allowed subject to the following conditions:-

- (i) The petitioner/accused No.12 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 No.12 holds a passport, he is directed to surrender the same, if it is not seized by now.

(iii) The petitioner/accused No.12 should not involve in any unlawful activity.

(iv) The petitioner/accused No.12 should afford all assistance for proper investigation of the case.

(v) The petitioner/accused No.12 should not cause the evidence of the offence disappear.

(vi) The petitioner/accused No.12 should not tamper with the evidence in any manner.

(vii) The petitioner/accused No.12 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.12 should ensure his presence whenever required by the Court or Police.

(ix) The petitioner/accused No.12 shall not leave India without previous permission of the court concerned.

(x) The petitioner/accused No.12 shall report before the Station House Officer, Nizamabad VI Town Police Station, Nizamabad 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 No.12 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

28.02.2023
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