

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1875 of 2023

ORDER:

1. Heard Sri A.Prabhakar Rao, learned counsel for the petitioner as well as the learned Additional Public Prosecutor who is representing the Respondent-State.

2. This Criminal Petition is filed under Section 439 Cr.P.C. seeking the Court to enlarge the petitioner, who is arrayed as Accused No.7 in S.C.No.8 of 2023, which is pending before the Court of Sessions Judge, Mulugu, on bail.

3. Stating that the petitioner is in judicial custody since 11.08.2022, learned counsel for the petitioner contends that except the alleged confessional statement of Accused No.4, there is no incriminating material that is glaring against the petitioner. Learned counsel further submits that even as per the version of the prosecution, it is not the petitioner who executed the plan of killing the deceased-Malla Reddy. Learned counsel also submits that though, as per the version of the prosecution, certain amount was recovered from the possession of the petitioner, there is no

material to show that the amount that was given for hiring him to kill the deceased-Malla Reddy was the amount that was recovered. Learned counsel also states that even in the contents of charge sheet, the allegation is that the petitioner has committed offence punishable under Section 120B read with 302 IPC.

4. On the other hand, the submission of the learned Additional Public Prosecutor is that the prime accused contacted and hired the petitioner herein to kill the deceased-Malla Reddy and as the petitioner delayed in executing the plan, they contacted others and got the deceased killed. Learned Additional Public Prosecutor further submits that the earlier application filed for grant of bail stood dismissed having regard to the gravity in the allegations levelled and thus, the present application is also not maintainable.

5. The matrix of the case as could be perceived through the contents of the material available on record is that there was rivalry between Accused Nos.1 to 3 on one hand and the deceased-Malla Reddy on the other hand.

Therefore, Accused Nos.1 to 3 took aid of Accused No.4 and contacted the petitioner herein to kill the deceased and gave a sum of Rs.2,50,000/-. However, the petitioner delayed in executing the plan. On that, Accused No.6 was approached and thereafter, Accused No.6, 8, 9, 11 & 12 hatched a plan and ultimately killed the deceased. So far as the role of the petitioner is concerned, as per the contents of the charge sheet, he agreed to kill the deceased and took advance. But he could not do so.

6. Making his submission in respect of change of circumstances from the date of dismissal of the earlier bail application, learned counsel for the petitioner contends that the petitioner is in judicial custody since more than six months and the earlier bail application was dismissed on the ground that the case is at PRC stage. Learned counsel submits that the case thereafter was committed to the Court of Sessions and the case is pending trial.

7. Having considered the period of judicial custody, the completion of investigation, filing of charge sheet and the role played by the petitioner, even as per the version of the

prosecution, this Court is of the view that the request of the petitioner can be honoured, however, conditionally.

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

- (i) The petitioner/Accused No.7 shall be enlarged on bail on his executing a personal bond for Rs.1,00,000/- (Rupees One Lakh only) 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/Accused No.7 should not involve in any unlawful activity.
- (iii) The petitioner/Accused No.7 should afford all assistance for the proper investigation of the case.

- (iv) The petitioner/Accused No.7 should not cause the evidence of the offence disappear.
- (v) The petitioner/Accused No.7 should not tamper with the evidence in any manner.
- (vi) The petitioner/Accused No.7 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.
- (vii) In case the petitioner/Accused No.7 holds a passport, he shall surrender the same if the same is not seized till now.
- (viii) The petitioner/Accused No.7 should ensure his presence whenever required by the Court or Police.
- (ix) The petitioner/Accused No.7 shall not leave India without previous permission of the Court concerned.
- (x) The petitioner/Accused No.7 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.

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

Dr. JUSTICE CHILLAKUR SUMALATHA

Date: 03.03.2023

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