

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1992 of 2023

ORDER:

Heard Sri B.Arjun Rao, learned counsel for the petitioner, as well as learned Additional Public Prosecutor who is representing the respondent-State.

2. Seeking pre-arrest bail in favour of the petitioner, who is arrayed as accused No.4 in Crime No.374 of 2022 of Osmania University Police Station, Hyderabad, this Criminal Petition is filed under Section 438 Cr.P.C.

3. Learned counsel for the petitioner states that the confessional statement of a co-accused is invalid in the eye of law and it cannot form sole basis for conviction of the petitioner, as per the judgment of the Hon'ble Apex Court in the case between ***Tofan Singh Vs. State of Tamilnadu***¹ and therefore, anticipatory bail may be granted.

4. Learned Additional Public Prosecutor, on the other hand, states that the investigation in this case is still pending. However, learned Additional Public Prosecutor did not bring anything to the notice of this Court, apart from the

¹ (2021) 4 SCC 1

alleged confessional statement of a co-accused, which is incriminating against the petitioner.

5. Thus, having regard to the submissions made, this Court is of the view that the request of the petitioner can be honoured. However, taking into consideration the apprehension of the learned Additional Public Prosecutor that as the petitioner is a resident of Goa, securing his presence for trial would be difficult and he may abscond, this Court considers it desirable to impose stringent conditions for the petitioner to appear during the course of trial before the Court concerned.

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

- (i) The petitioner/accused No.4 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.1,00,000/- (Rupees One lakh 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.4 holds a passport, he is directed to surrender the same.

(iii) The petitioner/accused No.4 should not involve in any unlawful activity.

(iv) The petitioner/accused No.4 should afford all assistance for proper investigation of the case.

(v) The petitioner/accused No.4 should not cause the evidence of the offence disappear.

(vi) The petitioner/accused No.4 should not tamper with the evidence in any manner.

(vii) The petitioner/accused No.4 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.4 should ensure his presence whenever required by the Court or Police.

(ix) The petitioner/accused No.4 shall not leave India without previous permission of the court concerned.

(x) The petitioner/accused No.4 shall report before the Station House Officer, Osmania University Police Station, Hyderabad, on every Sunday and Thursday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) On filing of final report, the petitioner/accused No.4 shall make his attendance before the Court concerned on every first working Monday of the month at 10.30 am till conclusion of the trial proceedings.

(xii) The petitioner/accused No.4 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.

06.03.2023
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