

HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.2864 of 2023

ORDER:

1. Heard Sri E.Varun Kumar, learned counsel who argued on behalf of Sri K.Sunil Goud, learned counsel on record for the petitioners as well as the learned Additional Public Prosecutor who is representing the Respondents.

2. Seeking pre-arrest bail, the present Criminal Petition is filed under Section 438 Cr.P.C. on behalf of the petitioners, who are arrayed as Accused Nos.3 & 4 in Crime No.177 of 2022 of Thurkapally Police Station.

3. Making his submission, learned counsel for the petitioners contends that the case neither falls within the ambit of Section 286 IPC nor within the ambit of Sections 3 & 5 of the Explosive Substances Act and therefore, anticipatory bail may be granted. Learned counsel also submits that the prime accused i.e., Accused Nos.1 & 2 were already enlarged on bail by the Sessions Court and the said fact may be taken into consideration.

4. On the other hand, the submission of the learned Additional Public Prosecutor is that Petitioner No.1 i.e.,

Accused No.3 is the main person who, as Developer of the land, secured huge quantity of Explosive substances violating the Rules. Learned Additional Public Prosecutor also contends that the case is still under investigation. Learned Additional Public Prosecutor further submits that the 2nd petitioner i.e., Accused No.4 is a person working at the site as a Labourer.

5. The facts of the case in brief as could be perceived through the contents of Part-I Case Diary are that Accused No.7 is the owner of the land which is situated in Survey Nos.60 & 61 of Nagaipally Village. Petitioner No.1/Accused No.3 is the Developer of the said land. He took over the development work. Accused No.7 entrusted the blasting work to the Developer i.e., the 1st petitioner. The blasting work has to be conducted duly obtaining permission from the competent authority and purchase of required explosives from licensed explosive dealer. But the accused planned for conducting illegal blasting operations so as to avoid additional expenses. Accordingly, they purchased the required explosives from unknown person and shifted them to the scene of offence by ordinary vehicle instead of

licensed explosive van. As per Explosive Rules, while conducting blasting operations, the explosives shall be kept under safe custody in the explosive van only. But the accused kept the explosives in the spot in a most negligent manner without taking any precautions. Also, the vehicles, without having number plates, were used for such operations.

6. The contents of Part-I Case Diary reveals grave allegations against the 1st petitioner/Accused No.3. As per the submission of the learned Additional Public Prosecutor, the case is still under investigation. Therefore, this Court is of the view that the request of the 1st petitioner i.e., Accused No.3 cannot be honoured.

7. So far as the 2nd petitioner i.e., Accused No.4 is concerned, as he was only working as a Labourer and his participation is not direct, this Court considers desirable to honour the request of the 2nd petitioner/Accused No.4.

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

- (i) The petitioner No.2/Accused No.4 is directed to surrender before the concerned Court within ten (10) days. On such surrender, he shall be enlarged on bail on his executing a personal bond for Rs.30,000/- (Rupees Thirty Thousand 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 No.2/Accused No.4 shall report before the Station House Officer, Thurkapally Police Station, on every Monday between 10.30 A.M. and 12:00 P.M. till filing of final report.
- (iii) The petitioner No.2/Accused No.4 should not involve in any unlawful activity.
- (iv) The petitioner No.2/Accused No.4 should afford all assistance for the proper investigation of the case.
- (v) The petitioner No.2/Accused No.4 should not cause the evidence of the offence disappear.

- (vi) The petitioner No.2/Accused No.4 should not tamper with the evidence in any manner.
- (vii) The petitioner No.2/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) In case the petitioner No.2/Accused No.4 holds a passport, he shall surrender the same.
- (ix) The petitioner No.2/Accused No.4 should ensure his presence whenever required by the Court or Police.
- (x) The petitioner No.2/Accused No.4 shall not leave India without previous permission of the Court concerned.
- (xi) The petitioner No.2/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 of the afore-mentioned details, the 2nd petitioner/Accused No.4 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 pre-arrest bail granted.

9. The Criminal Petition, so far as Petitioner No.1/Accused No.3 is concerned, stands dismissed.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date:27.03.2023
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