HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.3032 of 2023

ORDER:

1. Heard Sri Rajeshwar Rao, learned counsel who is representing Sri G.Madhusudhan Reddy, learned counsel on record for the petitioner as well as the learned Additional Public Prosecutor who is representing the Respondent-State.

2. Seeking the Court to enlarge the petitioner, who is arrayed as Accused No.2 in Crime No.264 of 2022 of Nacharam Police Station, on bail, the present Criminal Petition is filed.

3. Stating that the petitioner stands on the same footing as that of Accused No.1 and perceiving the discrepancy in the warrant issued for search and seizure, this Court granted bail in favour of Accused No.1, learned counsel brought to the notice of this Court the contents of the order that is rendered in Criminal Petition No.10178 of 2022, dated 23.11.2022. The observations made by this Court at Paras 3 to 5 of the order are as under:-

"3. Learned counsel for the petitioner states that the petitioner is implicated in a false case. Learned counsel

also submits that the petitioner is a driver by profession. Learned counsel by bringing to the notice of this Court few facts, contends that the case would not stand against the petitioner and thus, he is entitled for bail. Learned counsel submits that when the Sub-Inspector of Police, Nacharam Police Station, received information on 28.6.2022 at 2.30 pm, the warrant to enter and search issued by the Assistant Commissioner of Police reveals that the information was received on 28.6.2022 at 1.45 pm by the Sub-Inspector of Police. Learned counsel also submits that the letter addressed by the Sub-Inspector of Police, Nacharam Police Station to the Assistant Commissioner of Police seeking to accord permission to conduct search was received by the Assistant Commissioner of Police on 01.7.2022, which itself goes to show that the warrant issued anti-dated is a concocted one. Learned counsel further submits that the petitioner is in judicial custody since 28.6.2022 and is a permanent resident of Hyderabad city and hence, the question of his fleeing from justice does not arise and further, due to the lacunae in the case of the prosecution, the case itself would not stand and therefore, the petitioner may be enlarged on bail.

4. Learned Additional Public Prosecutor submits that seven witnesses were examined till now. Therefore, it is clear that material part of investigation is completed.

Learned Additional Public Prosecutor contends that the petitioner is involved in two other criminal cases.

5. However, Learned Additional Public Prosecutor has fairly conceded that there is some discrepancy and mis-match in the time regarding the communication received, the date on which permission was sought for to conduct search and the warrant issued."

4. Learned Additional Public Prosecutor states that on completion of investigation, charge sheet is laid and having regard to the discrepancy found, necessary orders may be passed.

5. Thus, considering the submission made by both sides, this Court is of the view that in consonance with the order that is referred supra, the petitioner/Accused No.2 is entitled for bail.

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

(i) The petitioner/Accused No.2 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.2 should not involve in any unlawful activity.

(iii) The petitioner/Accused No.2 should not cause the evidence of the offence disappear.

(iv) The petitioner/Accused No.2 should not tamper with the evidence in any manner.

(v) The petitioner/Accused No.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.

(vi) In case the petitioner/Accused No.2 holds a passport, he shall surrender the same if the same is not seized till now.

(vii) The petitioner/Accused No.2 should ensure his presence whenever required by the Court or Police.

(viii) The petitioner/Accused No.2 shall not leave India without previous permission of the Court concerned.

(ix) The petitioner/Accused No.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 in the afore-mentioned 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.

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Dr. JUSTICE CHILLAKUR SUMALATHA

Date:31.03.2023
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