

HON'BLE SRI JUSTICE K.SURENDER
CRIMINAL PETITION No.5032 of 2023

ORDER:

This petition is filed seeking to grant regular bail under Sections 437 and 439 of Criminal Procedure Code, 1973 (Cr.P.C). The petitioner is accused No.1 in Crime No.1452 of 2022 of Meerpet Police Station. The offence alleged against the petitioner is under Sections 420, 468, 471, 506 of IPC and Section 3(1)(r)(s), 3(2)(va) of SC/ST (POA) Act.

2. The case of the prosecution is that the petitioner/accused No.1 along with other accused under the guise of providing Government job collected the money from the complainant and others and cheated them by providing fake appointment orders. On coming to know the fact that the accused have given fake appointment orders, the complainant and his wife were questioned the same, but the accused abused them in the name of their caste and also in filthy language.

3. The learned senior counsel appearing for the petitioner/accused No.1 has raised the sole ground that though it is mandatory to issue notice under Section 41(A) of Cr.P.C in the said crime, but the same was not issued.

4. Learned Public Prosecutor appearing for the respondent-State opposed to grant bail to the petitioner/accused No.1.

5. Heard the learned counsel on either side and perused the material placed on record.

6. A perusal of the record, the Hon'ble Supreme Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and Anr**¹ has held that if notice under Section 41(A) Cr.P.C., is not issued, the detention would be invalid. The Hon'ble Supreme Court further held as follows:

“73. In conclusion, we would like to issue certain directions. These directions are meant for the investigating agencies and also for the courts. Accordingly, we deem it appropriate to issue the following directions, which may be subject to State amendments:

a) The Government of India may consider the introduction of a separate enactment in the nature of a Bail Act so as to streamline the grant of bails.

*b) The investigating agencies and their officers are duty-bound to comply with the mandate of Section 41 and 41A of the Code and the directions issued by this Court in **Arnesh Kumar (supra)**. Any dereliction on their part has to be brought to the notice of the higher authorities by the court followed by appropriate action.*

c) The courts will have to satisfy themselves on the compliance of Section 41 and 41A of the Code. Any non-compliance would entitle the accused for grant of bail.

d) All the State Governments and the Union Territories are directed to facilitate standing orders for the procedure to be followed under Section 41 and 41A of the Code while taking note of the order of the High Court of Delhi dated 07.02.2018 in Writ Petition (C) No. 7608 of 2018 and the

¹ 2022 LawSuit (SC) 817

standing order issued by the Delhi Police i.e. Standing Order No. 109 of 2020, to comply with the mandate of Section 41A of the Code.

e) There need not be any insistence of a bail application while considering the application under Section 88, 170, 204 and 209 of the Code.

*f) There needs to be a strict compliance of the mandate laid down in the judgment of this court in **Siddharth (supra)**.*

g) The State and Central Governments will have to comply with the directions issued by this Court from time to time with respect to constitution of special courts. The High Court in consultation with the State Governments will have to undertake an exercise on the need for the special courts. The vacancies in the position of Presiding Officers of the special courts will have to be filled up expeditiously.

h) The High Courts are directed to undertake the exercise of finding out the undertrial prisoners who are not able to comply with the bail conditions. After doing so, appropriate action will have to be taken in light of Section 440 of the Code, facilitating the release.

i) While insisting upon sureties the mandate of Section 440 of the Code has to be kept in mind.

*j) An exercise will have to be done in a similar manner to comply with the mandate of Section 436A of the Code both at the district judiciary level and the High Court as earlier directed by this Court in **Bhim Singh (supra)**, followed by appropriate orders.*

k) Bail applications ought to be disposed of within a period of two weeks except if the provisions mandate otherwise, with the exception being an intervening application. Applications for anticipatory bail are expected to be disposed of within a period of six weeks with the exception of any intervening application.”

7. In view of the above and taking into consideration the facts and circumstances of the case, this Court is inclined to grant bail to the petitioner/accused No.1 on certain conditions.

8. Accordingly, this Criminal Petition is allowed and the petitioner/accused No.1 shall be released on bail on the following terms and conditions:

i). The petitioner/accused No.1 shall be released on bail on his executing a personal bond for Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for a like sum each to the satisfaction of the learned Special Sessions Judge for Trial of cases under SCs and STs (POA) Act cum VII Additional District and Sessions Judge, LB Nagar, Ranga Reddy District.

ii). The petitioner/accused No.1 shall appear before the Station House Officer, Meerpet Police Station on every Monday at 10 a.m., for a period of eight weeks.

iii). The petitioner/accused No.1 shall not directly or indirectly influence or make any witnesses or complainant.

iv). The petitioner/accused No.1 shall not indulge in similar type of offences till conclusion of trial and if it is found that the petitioner is involved in similar type of offences in future, the bail granted to him shall automatically stands cancelled and he shall be taken into custody forthwith.

v). The petitioner/accused No.1 shall make available with the investigating agency for proper investigation and he shall fully cooperate with the investigation agency. He

shall not at in any manner which will be prejudicial to
fair and expeditious investigation.

23.06.2023
Dua/Mmr

K.SURENDER, J

HON'BLE SRI JUSTICE K.SURENDER

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