

**HON'BLE SRI JUSTICE K.SURENDER**

**CRIMINAL PETITION No. 5288 OF 2023**

**ORDER:**

1. This Criminal Petition under Section 438 Cr.P.C. is filed by petitioners – Accused Nos.6 and 7 seeking bail in the event of their arrest in connection with Crime No.1143 of 2018 on the file of Banjara Hills Police Station, which was registered for the offences punishable under Sections 406, 415, 418, 421, 425, 426, 463, 464 read with 120 (B) of Indian Penal Code.

2. The brief facts of the case are that the complainant was given Sub-contract for execution of Vijayaraghavgarh Branch Canal and Piongy Distributary of Bargi Division by Narmada Valley Development Authority, but the said contract was terminated on 08.09.2015 and therefore, the complainant left the site by leaving 14 vehicles belonging to him. Thereafter, the accused on promise to pay the rent used the vehicles but he did not pay the rent. Thereafter, the complainant allegedly found that accused No.1 had hypothecated all his 14 vehicles by fabricating the vehicles invoices on its name to the Government of Madhya Pradesh. Hence, the complaint.

3. The petitioners are apprehending arrest in Crime No.1143 of 2018. The said crime was investigated and charge sheet was filed by the Banjara Hills Police in the month of March 2019.

4. In all four accused were arrayed in the charge sheet and two persons were shown as suspects and they were not charge sheeted. The present petitioners are now apprehending arrest in the said crime on the basis of subsequent investigation done by the police after filing of the initial charge sheet.

5. The *de facto* complainant approached this Court and filed CrI.P.No.8757 of 2022 stating that he got possession of certain documents, which reflected complicity of accused Nos.1 to 4 and other accused also. This Court vide order dated 28.11.2022, in CrI.P.No.8757 of 2022 directed that the said documents shall be brought on record during the course of examination and also given liberty to the *de facto* complainant to invoke the provision under Section 319 of Cr.P.C.

6. On instructions, the learned Public Prosecutor would submit that these accused are not assisting investigation and further, he submits that since notice under Section 41-A Cr.P.C is given, there cannot be any apprehension of arrest.

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

8. Keeping in view the submission made by the learned Public Prosecutor that the petitioners/accused Nos.6 and 7 are not co-operating with the investigation, this Court deems it appropriate to grant anticipatory bail to the petitioners by imposing certain conditions and also in the background of the crime being registered in 2018 and order passed in CrI.P.No.8757 of 2022.

9. Accordingly, the Criminal Petition is allowed on the following terms and conditions:

(i) The petitioners/accused Nos.6 and 7 are directed to surrender before the Station House Officer on 28.06.2023 and they shall be enlarged on bail in connection with Crime No.1143 of 2018 on the file of the Banjara Hills Police Station, on their executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties to the like sum each to the satisfaction of concerned Station House Officer.

(ii) The petitioners/accused Nos.6 and 7 shall appear before the Station House Officer, Banjara Hills Police Station on every day at 10.00 A.M for a period of 15 days.

(iii) The petitioners/accused Nos.6 and 7 shall abide by the other conditions stipulated in Section 438 (2) Cr.P.C and co-operate with the Investigating Officer in investigating the case.

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**K.SURENDER, J**

23.06.2022  
mmr/dua

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