

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION NO.6921 OF 2023****ORDER:**

1. This Criminal Petition is filed under Sections 437 and 439 of Code of Criminal Procedure, 1973 (for short "Cr.P.C") seeking regular bail to the petitioner/Accused No.2 in Crime No.153 of 2023, on the file of Central Crime Station (CCS), DD, Team IV, Hyderabad, registered for the offence under Section 420 r/w. 34 of IPC.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent-State and perused the record.

3. According to the prosecution case, an amount of Rs.41,15,35,000/- was transferred in all to the company of the petitioner, which is shown as A-1 in the F.I.R. An amount of Rs.3,25,01,947/- was transferred online and the remaining amount was adjusted, which was with the petitioner earlier. The said amount was transferred towards purchase of 4620 units of Samsung Mobile phones located at Ludhiana. The petitioner failed to send the units of Mobile

phones as promised. However, cheques were issued towards outstanding amount. The said cheques when presented for clearance were returned unpaid.

4. On the basis of the complaint, the Police CCS registered a crime for the offence under Section 420 r/w. 34 of IPC. The petitioner approached the trial Court and by order dated 17.05.2023, the petitioner was enlarged on bail on conditions.

5. The Police CCS filed the petition seeking cancellation of bail on the ground that the petitioner appeared on 19.05.2023 and the Investigating Officer directed to produce original gun license, details of amount of Rs.4,15,35,000/- that were transferred to parties, details of invoices, details of warehouse where the Mobile phones are available, transactions with M/s.IPC Express Cargo and details of bank account existing in the name of M/s.Sanav Telecom LLP. However, the petitioner failed to produce the said documents for which reason, the bail cancellation was sought. The learned Magistrate having considered the contention of the Investigating Officer, cancelled the bail on 03.07.2023. On

the said date, the petitioner was present in the Court and he was directed to be taken into custody. It is mentioned in the order that the accused was remanded to judicial custody till 14.07.2023.

6. Learned counsel appearing for the petitioner would submit that in fact all the evidence that was required was provided to the Police by the petitioner and the allegation that he was not assisting investigation is incorrect.

7. On the other hand, learned Additional Public Prosecutor would submit that the petitioner was threatening the complainant with a weapon. The photograph of the weapon was being sent on whatsapp to the *de-facto* complainant.

8. On the last occasion, this Court directed the Investigating Officer to file a report regarding investigation done. The report was filed by the Investigating Officer. In the said report, the Investigating Officer had stated about investigation done regarding stocks of 40 to 60 units and how the amounts transferred by the complainant were diverted. Further, the Investigating Officer stated that the

original gun license was not produced and the details of the warehouse where the stocks of units of Mobile phones are available were also not ascertained. Finally, the petitioner was native of Uttar Pradesh, presently residing at Thane and running office at Mumbai and there is every possibility of shifting to Uttar Pradesh to evade his presence. The details of amounts which were transferred by the complainant, thereafter transferred by the petitioner are available. The case is of cheating on the ground that promise was made regarding delivery of Mobile phones which were not delivered. It is not in dispute that there were previous business transactions between the parties. Cheques were given towards repayment and the same was returned unpaid. Notice was also issued. There are no criminal antecedents of the petitioner and it is not the case that the petitioner was not dealing with selling of phones earlier.

8. The petitioner is in jail since 03.07.2023. In view of the report in which it appears that most of the investigation is complete, this Court deems it appropriate to grant bail to the petitioner on the following conditions:-

- i) The petitioner/A-2 shall execute personal bond for a sum of Rs.1,00,000/- (Rupees One lakh only) with two sureties for a like sum each to the satisfaction of XII Additional Chief Metropolitan Magistrate, Hyderabad.
- ii) The petitioner/A-2 shall stay in Hyderabad for two weeks and shall appear before the concerned Investigating Officer everyday from 14.08.2023 to 28.08.2023 at 10.00 AM and thereafter as and when required, for the purpose of investigation.
- iii) Since, it is submitted by the Additional Public Prosecutor that the Passport of the petitioner is already with the Police, it is needless to say that any travel outside India shall be with the prior permission of the Court concerned.
- (iv) The petitioner/A-2 shall abide by the other conditions stipulated in Section 437(3) of Cr.P.C.
9. Accordingly, this Criminal Petition is allowed. Miscellaneous applications, pending if any, shall stand closed.

K.SURENDER, J

Date: 08.08.2023
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Dt.08.08.2023

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