

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.1514 of 2024

ORDER:

This Criminal Petition is filed under Section 438 of Cr.P.C. by the petitioner/accused seeking to grant bail in the event of his arrest in connection with Crime No.97 of 2024 on the file of Patancheru Police Station, Sangareddy District, registered for the offence punishable under Section 5 of Explosive Substances Act, 1908.

2. The case of the prosecution in brief was that on 27.01.2024 at about 05:00 PM, the Tahsildar, Patancheru Mandal lodged a report in the Police Station stating that on the same day at about 04:00 PM, the Task force team have inspected the mining Quarry pertaining to M/s Santhosh Sand and Granite Supply, represented by petitioner/accused situated in Government land bearing No.Sy.No738 of Lakdaram village and found illegal storage of explosive materials being used for mining activities. Basing on the said report, the above crime was registered against the petitioner/accused.

3. Heard learned senior counsel for the petitioner and learned Additional Public Prosecutor for the respondent No.1-State.

4. Learned senior counsel for the petitioner/Accused submitted that the Petitioner Company was accorded permission under the Metalliferous Mines Regulations, 1961 to carryout deep hole blasting activities with the help of Heavy Earth Moving Machinery (HEMM) and the Company obtained necessary clearances and permissions from various departments for carrying out quarrying and mining operations. The Petitioner Company entered in to agreement with one Vigneshwara Enterprises, the Supplier of Explosive substances, who were holding license. The Petitioner Company was granted 'No Objection Certificate' for the possession and use of Explosives vide proceedings No.dt.Lr.No.C3/3356/2016 dated 18.09.2017 to carryout blasting operation in the subject premises as per the agreement entered with the Explosive dealer, the dealer supplied the Explosive Substances. As per the statutory requirements and upon taking necessary safeguards within the permitted area as per the lease deed, the petitioner Company stored the above explosives. The explosive substances were used to carry out the blasting operations in the permitted area in the presence of supervisors and competent authority and the explosive dealer. He further submitted that Section 5 of Explosive Substances

Act, 1908 was applicable only if the explosive substances were found in possession for use of any unlawful activities, but the petitioner was using them for mining activity, for which he had got permission and prayed to grant anticipatory bail to the petitioner.

5. The learned Additional Public Prosecutor opposed grant of anticipatory bail to the petitioner stating that the possession itself would attract the offence under Section 5 of Explosive Substances Act, 1908 and the petitioner was not having any license to possess the Explosive substances and prayed to dismiss the petition.

6. Perused the record. Considering that the petitioner was granted license to conduct mining operation and he purchased the explosives from a licensed dealer in accordance with the agreement entered with the explosive dealer, and the same was not for any illegal purpose to attract the essential ingredients of the offence under Section 5 of Explosive Substances Act, 1908, it is considered fit to grant anticipatory bail to the petitioner.

7. In the result, the Criminal Petition is allowed and the petitioner/accused is granted anticipatory bail subject to the following conditions:

- 1) The petitioner/accused is directed to surrender before the concerned Station House Officer, Patancheru Police Station, Sangareddy District, within a period of 15 days from the date of this order. On such surrender, the said Station House Officer shall release the petitioner/accused on bail, on his executing a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for a like sum each to the satisfaction of the said Station House Officer.
- 2) The petitioner/accused shall abide by the conditions stipulated under Section 438(2) of Cr.P.C and shall co-operate with the Investigating Officer in investigation of the case.

Miscellaneous applications, if any pending, shall stand closed.

Dr. G.RADHA RANI, J

Date : 13.02.2024
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