

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL PETITION No.2647 of 2024

ORDER:

This Criminal Petition is filed by the petitioners/A8 and A9 under Section 439 r/w Section 167(2) of Cr.P.C. to enlarge the petitioners on bail in connection with Crime No.221 of 2022 of EOW Team-VII, CCS Police Station, Hyderabad, registered for the offences punishable under Sections 406 and 420 r/w 34 of IPC and Section 5 of Telangana Protection of Depositors of Financial Establishments Act, 1999 (for short "TSPDFE Act").

2. As the petition was filed both under Section 439 r/w Section 167(2) of Cr.P.C., this Court directed the learned counsel for the petitioners to submit as to how the petition was maintainable under both the aforesaid Sections.

3. Learned counsel for the petitioners stated that he would restrict the petition for grant of statutory bail under Section 167(2) of Cr.P.C. and that he would withdraw Section 439 of Cr.P.C.

4. Permission is accorded.

5. As such, the petition is confined to consider whether the petitioners are entitled for statutory bail under Section 167(2) of Cr.P.C.

6. Heard Sri M.Rathan Singh, learned counsel for the petitioners and the learned Additional Public Prosecutor representing the respondent-State.

7. Learned counsel for the petitioners submitted that the petitioners/A8 and A9 were arrested on 28.12.2023 in Crime No.290 of 2023 of EOW Team-VII, CCS Police Station, Hyderabad, and on P.T. warrant, they were remanded to judicial custody on 12.01.2024 in the present crime. They were even taken on police custody. The petitioners moved a statutory bail petition under Section 167(2) of Cr.P.C. *vide* CrI.M.P.No.803 of 2024 before the learned Metropolitan Sessions Judge, Hyderabad, but the same was dismissed by the learned Metropolitan Sessions and relied upon the judgment of the Hon'ble Apex Court in ***CBI v. Anupam J. Kulkarni***¹ and the judgment of the erstwhile High

¹ 1992 AIR 1768

Court of Andhra Pradesh in *Tupakula Apparao v. State of Andhra Pradesh*².

8. Learned Additional Public Prosecutor submitted that as the statutory period of 60 days was not completed, the trial Court had rightly dismissed the bail petition filed by the petitioners by the date of filing the petition, as the statutory period was not completed, the petitioners are not entitled for bail under Section 167(2) of Cr.P.C.

9. Perused the record.

10. As contended by the learned counsel for the petitioners, the petitioners/A8 and A9 are arrested in Crime No.290 of 2023 on 28.12.2023 and they are produced on PT warrant on 12.01.2024 in the present crime. The offences alleged against the petitioners are under Sections 406 and 420 r/w 34 of IPC and Section 5 of TSPDFE Act. All the aforesaid offences are not punishable with death, imprisonment for life or imprisonment for a term of more than ten years. As such, the petitioners/A8 and A9 are entitled for statutory bail under Section 167(2)(a)(ii) of Cr.P.C., if the charge

² 2001 SCC Online AP 1575

sheet is not filed within a period of 60 days by the investigating agency. Admittedly, the investigation is not completed and charge sheet is not yet filed. However, the only point for consideration in this case is whether 60 days period has to be calculated from the date of arrest in Crime No.290 of 2023, i.e. on 28.12.2023 or from 12.01.2024 in the present crime.

11. In the decision relied by the learned counsel for the petitioners in *Anupam J. Kulkarni's* case (1 supra), the question that fell for consideration in the said case was whether a person arrested and produced before the nearest Magistrate as required under Section 167(1) of Code of Criminal Procedure could still be remanded to police custody after the expiry of the initial period of 15 days and it was held that “the provisions of law lay down that such detention can be allowed only in special circumstances and that can be only by a remand granted by a magistrate for reasons judicially scrutinised and for such limited purposes as the necessities of the case may require. The scheme of Section 167 is obvious and is intended to protect the accused from the methods

which may be adopted by some overzealous and unscrupulous police officers.”

12. The issue determined in the said case is entirely different from the issue involved in the present case. As such, the said judgment of the Hon’ble Apex Court is not relevant to decide the present case.

13. In *Tupakula Apparao*’s case (2 supra) relied on by the learned counsel for the petitioners, the question that fell for consideration was whether the petitioner therein was deemed to have been in custody in other crimes, although there had been no formal arrest in connection with those crimes.

14. In the present case, the petitioners are formally arrested on 12.01.2024. As such, the deemed arrest in other crimes need not be considered and the said judgment is also not applicable to the facts of the present case. As the formal arrest of the petitioners is shown in the present crime on 12.01.2024, the statutory period of 60 days shall be calculated from the said date only. As the statutory period of 60 days is not completed, the trial Court has

rightly dismissed the petition filed by the petitioners. But as the statutory period of 60 days is completed as of now, the petitioners are entitled to be released.

15. In the result, the Criminal Petition is allowed and the petitioners/A8 and A9 shall be released on bail subject to the following conditions:

- 1) The petitioners/A8 and A9 shall execute a personal bond for a sum of Rs.50,000/- (rupees fifty thousand only) each with two sureties each for the like sum to the satisfaction of the Metropolitan Sessions Judge, Nampally, Hyderabad.
- 2) The petitioners/A8 and A9 shall deposit their passports, if any, before the trial Court and shall not leave the country without the permission of the trial Court and shall appear before the trial Court as and when the case is posted. They shall file their affidavits whether they are in possession of the passports or not.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. G. RADHA RANI, J

Date: 12.03.2024
ssp