

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.3267 of 2024

ORDER:

This Criminal Petition is filed by the petitioner - accused under Sections 437 and 439 of Code of Criminal Procedure for grant of regular bail in Crime No.3/ACB-ADB/2022 at Police Station, Adilabad registered for the offences under Sections 13(1)(c) & (d) read with 13(2) of Prevention of Corruption Act, 1988.

2. The case of the prosecution in brief was that the petitioner - accused while working as Child Development Project Officer (CDPO) in ICDS Project, Jainoor, Adilabad District diverted the Government funds and food material i.e. rice, dal, milk, eggs, oil and other kiraana substances to the black market. Basing on the alleged complaint, the ACB Officials conducted enquiry and as per their enquiry, it was revealed that the petitioner while working as CDPO at ICDS Project, Jainoor from 04.05.2015 to 31.07.2016, misused the Government funds and diverted the food material. Even though, milk was not supplied, she prepared fake bills in the name of anganwaadi workers and claimed the bills of milk for the months July, 2015 and from October, 2015 to May, 2017 and withdrawn the amounts from CDPO, Jainoor Account without purchase of milk

and performed public duty dishonestly, improperly and misappropriated an amount of Rs.65,78,467/- by abusing her official position by corrupt and illegal means and obtained pecuniary gain to herself and caused corresponding loss to the Government by creating false statements for incurring expenditure for arogya lakshmi milk supply to 322 anganwaadi centers. As such, the ACB Officials registered Crime No.3/ACB-ADB/2022 dated 11.08.2022 for the offences punishable under Sections 13(1)(c) & (d) read with 13(2) of Prevention of Corruption Act, 1988. They arrested the accused on 29.02.2024 and produced before the Court. She was remanded to judicial custody on 29.02.2024.

3. Heard Sri S.Lakshmi Kanth, learned counsel for the petitioner and the learned Standing Counsel - cum - Special Public Prosecutor for ACB.

4. Learned counsel for the petitioner submitted that the alleged complaint was a result of personal grudge between the family of the *de facto* complainant and the petitioner. There was a rivalry between the brother of the petitioner / accused by name Anishetty Srinivas and *de facto* complainant by name Anishetty Bharat Bhushan for which an FIR was registered vide Crime No.570 of 2014 dated 13.12.2014 on the file of PS Hanumakonda, erstwhile Warangal Urban District for the offences punishable under Sections 448, 290 and 323 of

IPC. In the said crime, the petitioner - accused was cited as one of the witnesses. The present complaint was filed maliciously with vengeance.

4.1. Learned Counsel for the petitioner further submitted that the alleged misappropriation of funds was during the period from 04.05.2015 to 30.07.2016 and the case was registered on 11.08.2022 after a period of six years and the petitioner was arrested on 29.02.2024 after a period of eight years. The Investigating Agency conducted search at the home of the petitioner. But no incriminating material much less any disproportionate assets were seized by them. She was issued a certificate of appreciation for her commendable services as 'best motivator' during the year 2015-2016 on the occasion of celebration of World Population Day on 11.07.2016 and awarded as best CDPO.

4.2. Learned counsel for the petitioner further submitted that the case was registered under Sections 13(1)(c) & (d) read with 13(2) of Prevention of Corruption Act, 1988. The prevention of Corruption Act was amended on 26.07.2018 and sub-sections (c) & (d) were deleted. The FIR was registered on 11.08.2022 after the amendment under Sections 13(1)(c) & (d) which were not available in the Prevention of Corruption Act, as such, registering the case under the said provisions itself was not maintainable.

4.3. Learned counsel for the petitioner further submitted that the petitioner was a divorcee having a marriageable aged daughter and relied upon the

judgments of the Hon'ble Apex Court in **State of Rajasthan, Jaipur v. Balchand @ Baliy**¹ on the aspect that 'bail is the rule and jail is an exception' and also relied upon the judgment of the High Court of Jammu & Kashmir in **Gohar Ahmed Dar v. Central Bureau of Investigation, Jammu and Another**² on the aspect that

“Denying bail to the petitioner on the ground that he was involved in an economic offence would amount to inflicting punishment upon him without trial, which was impermissible in law. Despite evolution of law relating to bail over the last many decades, the golden principle that "bail is the rule and jail is an exception" still continues to hold good. Unless there are exceptional circumstances to deny bail in cases where there is no legal or statutory bar to grant of bail, the bail cannot be refused as a measure of punishment”

and prayed to enlarge the petitioner on bail.

5. Learned Standing Counsel - cum - Special Public Prosecutor for ACB submitted that as per the treasury bill register, the petitioner - accused prepared fake bills of milk for the months of July, 2015, October, 2015 to May, 2016 in the name of anganwaadi workers and as per the bank statement of the petitioner, she had withdrawn an amount of Rs.67,24,532/- by using self cheques on various dates i.e. Rs.15,44,645/- on 17.02.2016, Rs.14,67,925/- on 31.03.2016, Rs.22,27,567/- on 02.04.2016 and Rs.14,84,395/- on 30.06.2016 and not deposited in the accounts of anganwaadi workers and misappropriated

¹ (1977) 4 SCC 308

² 2023 SCC Online J&K 258

Government funds. There were no acknowledgements and details, where the drawn amounts were deposited or the drawn amounts were received by the concerned. Despite receiving notices for five times, she did not appear before the Investigating Officer and prayed to dismiss the bail application of the petitioner.

6. Perused the record.

7. Considering that the alleged misappropriation of funds was during the period from 04.05.2015 to 30.07.2016 and the case was registered six years later on 11.08.2022 and the petitioner was apprehended after 8 years on 29.02.2024 and no incriminating material was found in the search conducted at the home of the petitioner and no disproportionate assets were alleged to be seized by the Investigating Authority and the case was registered under a non-existing provision under Sections 13(1)(c) & (d), which were not available at the time of registration of the case on 11.08.2022 and also considering the submissions of the learned counsel for the petitioner that the *de facto* complainant who was no way concerned with the official duties of the petitioner - accused lodged the complaint and the brother of the petitioner - accused lodged a case against the *de facto* complainant vide FIR No.570 of 2014 earlier to this case and the case appears to be lodged by the *de facto* complainant due to internal disputes between the two families and also considering that the investigation was almost

completed and about 24 witnesses were examined till date and the custodial interrogation of the petitioner is no more required and the evidence in the form of documents like bank cheques, copy of milk bills, treasury bill registers, stock registers, etc. were also collected by the Investigating Authority from ICDS Project Office and also considering the personal aspects of the petitioner that she was a woman and a divorcee and reported to be having a marriageable aged daughter, who was staying alone and the petitioner was in custody since almost one month and also considering the judgments relied by the learned counsel for the petitioner that the offences alleged to have been committed by the petitioner, though can be categorized as an economic offence, but it is not of such a large magnitude and does not fall as an exceptional case to deny bail without trial, it is considered fit to enlarge the petitioner on bail.

8. In the result, the Criminal Petition is allowed directing the petitioner - accused to be released on bail on her 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 Special Judge for SPE & ACB Cases at Karimnagar. The petitioner shall abide by the conditions stipulated under Section 437(3) of Cr.P.C.

As a sequel, miscellaneous applications pending in this petition, if any shall stand closed.

Date: 28th March, 2024
Nsk.

Dr. G.RADHA RANI, J