**THE HON'BLE SRI JUSTICE K.LAKSHMAN**

**CRIMINAL PETITION No.7573 OF 2024**

**ORDER:**

This Criminal Petition is filed under Sections – 437 and 439 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') to grant regular bail to the petitioner herein/A.6 in S.C.No.1 of 2023 pending on the file of Principal Special Judge for CBI Cases, Hyderabad. The offences alleged against him are punishable under sections 120-B read with Sections 302 and 201 of the Indian Penal Code, 1860 (for short, 'the IPC').

2. Heard Sri E.Uma Maheshwar Rao, learned counsel, representing Sri Enuganti Sudhanshu Rao, learned counsel for the petitioner/A.6, Sri Anil Tenwar, learned Spl.Public Prosecutor – cum – Senior Public Prosecutor for CBI and Sri B.Nalin Kumar, learned Senior Counsel representing Ms.Tekuru Swetcha, learned counsel appearing for 2nd respondent.

3. The allegations leveled against the petitioner herein are that he is close associate of A.5, A.7 and A.8. He was found active in the intervening night of 14/15.03.2019 and he had visited the house of A.7 and A.8 several times and also other relevant places. He was having

knowledge of death of the deceased early in the morning around 3.30 - 4.00 A.M. on 15.03.2019. He had prior knowledge of conspiracy and in order to facilitate the act amongst the co-accused persons, he had taken leave on 15.03.2019 by submitting leave application on 14.03.2019. He visited the house of A.7/A.8 on 13.03.2019 and 14.03.2019 in the evening. A.2 also visited the house of A.7/A.8. He had visited the house of A.7/A.8 in the early morning of 15.03.2019, accompanied A.5 and A.8 for destruction of evidence and thus he was fully aware of the murder of the Deceased. Thereafter, he accompanied A.8 and others at the residence of the Deceased. He was also involved in the destruction of evidence at the scene of crime as he called his father Gajjela Jaya Prakash Reddy at 6.35 A.M. on 15.03.2019 soon after he arrived at the residence of the Deceased in conspiracy with other accused for applying cotton and bandages on grievous injuries of the dead body of the Deceased to conceal the same. Therefore, he is also part of criminal conspiracy for murder of the Deceased and destruction of the evidence at the scene of offence.

4. The alleged incident took place on the intervening night of 14/15.03.2019. Pursuant to the order passed by the High Court of Andhra Pradesh dated 11.03.2020 in W.P.Nos.3944 of 2019 and batch filed by 2nd

respondent and her mother, investigation was entrusted to CBI. On completion of investigation, the Investigating Officer laid charge sheet on 26.10.2021 against A.1 to A.4. First Supplementary Charge sheet was filed on 07.11.2022 against A.5. Second Supplementary Charge sheet was filed against the petitioner herein/A.6 and A.7 and A.8 on 28.06.2023. the petitioner was arrested on 14.04.2023.

5. It is also apt to note that this is the third bail application filed by the petitioner herein/A.6 before this Court. Earlier bail application filed by him vide Crl.P.No.3046 of 2024 was dismissed by this Court vide common order dated 03.05.2024. Earlier vide common order dated 11.03.2023, this Court dismissed bail application filed by the petitioner/A.6 vide Crl.P.No.7545 of 2023. In both the said orders, this Court observed that there are serious allegations against the petitioner/A.6.

6. This Court also considered that P.W.9 Circle Inspector of Police then Circle Inspector has mentioned the role of the petitioners and others in his statement given to CBI under Section 161 of Cr.P.C. He also expressed his willingness to give his statement under Section 164 of Cr.P.C. He was placed under suspension and the same was revoked

thereafter. He has addressed a letter to the Superintendent of Police, Kadapa stating that the CBI pressurized him to turn as an Approver.

7. This Court also considered the order of pardon granted to A.4 and the same was challenged by A.1 and A.3 by filing Crl.P.Nos.6976 and 6980 of 2024.

8. In paragraph No.16 of the order vide common order dated 03.05.2024 in Crl.P.No.3044 and 3046 of 2024, this Court observed that A.8 is a sitting Member of Parliament from Kadapa Parliament Constituency and A.7 is his father. They are highly influential persons. All the witnesses are from the State of Andhra Pradesh and thus there is every possibility of the petitioners herein threatening/influencing the witnesses in which event, it may not be possible to the trial Court to conduct trial in a fair and transparent manner. Conducting fair trial is integral part of Article 21 of the Constitution of India.

9. In the light of the same, in the present petition, this Court has to consider as to whether there is any change of circumstances from 03.05.2024 to today.

10. Sri E.Uma Maheshwara Rao, learned Senior Counsel appearing for petitioner/A.6 would contend that the petitioner herein is an employee of Uranium Corporation of India Limited. His name was not there in the

charge sheet dated 26.10.2021 and in the first supplementary charge sheet dated 31.01.2022. He was arrayed as A.6 in the second supplementary charge sheet, dated 28.06.2023. The offences alleged against the petitioner herein/A.6 are punishable under sections 120-B read with Sections 302 and 201 of IPC. The punishment prescribed for the offence under Section 201 of Cr.P.C. is only seven years. With regard to allegation of conspiracy is a triable issue. There is no motive to the petitioner/A.6 to commit murder of the deceased. He never participated in destruction of evidence at the scene of offence as alleged by the CBI.

11. Cognizance was taken against the petitioner/A.6 on 13.07.2023. There are no criminal antecedents against the petitioner/A.6. Even in the statement of A.4, there is no allegation against the petitioner herein/A.6. The allegations made against the petitioner are trivial in nature. The petitioner is in jail from 14.04.2023. The aforesaid S.C.No.1 of 2023 is at the stage of compliance of Section 207 Cr.P.C. A.8 is on anticipatory bail, A.5 and A.7 are on regular bail. Thus, A.7 and A.8 who were arrayed as accused 7 and 8 in Second Supplementary Charge sheet dated 28.06.2023 and the allegations leveled against them are also conspiracy and destruction of evidence, are on bail. The petitioner herein/A.6 is also standing on the same footing. Therefore, he is also entitled for bail.

12. Whereas, learned Special Public Prosecutor and Sri B.Nalin Kumar, learned Senior Counsel appearing for 2nd respondent would contend that there is no change of circumstance from 03.05.2024 to today. This Court considered all the aspects, more particularly, the aspect that there are serious allegations against the petitioner, he is close associate of A.7 and A.8, parity etc. This Court granted regular bail to A.5 and A.7 only on medical grounds. However, the order granting anticipatory bail to A.8, regular bail granted to A.5 and A.7 are under challenge before the Apex Court and the same are pending. The petitioner is intentionally not cooperating with the trial Court in completing the stage of 207 Cr.P.C. The petitioner is making one allegation or the other and obstructing the proceedings in the present Sessions Case intentionally. Therefore, there is every possibility of petitioner threatening the witnesses and interfering with the trial. Therefore, at this stage, the petitioner is not entitled for bail.

13. It is relevant to note that considering the seriousness and larger conspiracy, the investigation was entrusted to CBI and vide order dated 29.11.2022 in W.P.(Crl) No.169 of 2022 filed by 2nd respondent and her mother, the Apex Court considering the apprehension expressed by them,

transferred the trial from CBI Special Court, Kadapa to CBI Special Court, Hyderabad. This Court granted regular bail to A.5 and A.7 and anticipatory bail to A.8. The same were challenged by 2nd respondent, the daughter of deceased and the same are pending before the Apex Court.

14. There is no dispute that the petitioner herein is an employee of Uranium Corporation of India Limited. He was not there in the charge sheet dated 26.10.2021 and First Supplementary Charge sheet dated 31.01.2022. His name was arrayed as A.6 in the second supplementary charge sheet filed on 21.06.2023. The allegations leveled against the petitioner herein are that he is close associate of A.5, A.7 and A.8. He had applied for leave on 14.03.2019 and obtained leave on 15.03.2019 on submitting leave application on 14.03.2019. He visited the house of A.7/A.8 on 13.03.2019 and 14.03.2019 in the evening, while A.2 also visited the house of A.7/A.8. He had visited the house of A.7/A.8 in the early morning of 15.03.2019, accompanied A.5 and A.8 for destruction of evidence and thus he was fully aware of the murder of the Deceased and thereafter, he accompanied A.8 and others at the residence of the Deceased. He has involved in the destruction of evidence at the scene of crime as he called his father Gajjela Jaya Prakash Reddy at 6.35 A.M. on 15.03.2019 soon after he arrived at the residence of the Deceased in

conspiracy with other accused for applying cotton and bandages on grievous injuries of the dead body of the Deceased to conceal the same. Therefore, he is also part of criminal conspiracy for murder of the Deceased and destruction of the evidence at the scene of offence.

15. He was found active in the intervening night of 14/15.03.2019 and visited the house of A.7 and A.8 several times besides other relevant places. He was having knowledge of death of the deceased early in the morning around 3.30 - 4.00 A.M. on 15.03.2019. He has participated actively in the destruction of evidence and he called his father at 6.35 a.m. of 15.03.2019 to the house of the deceased. He along with the other accused has applied cotton and bandage to grievous injuries of the deadbody of the deceased to conceal the same.

16. There is no dispute that the petitioner herein is in jail from 14.04.2023 (one year four months and eight days). There is also no dispute that the present Sessions Case is at the stage of compliance of the Section 207 of Cr.P.C. According to the petitioner, he is co-operating with the trial Court.

17. Whereas, learned Senior Counsel appearing for 2nd respondent and learned Special Public Prosecutor for CBI would contend that the petitioner is not cooperating with the trial court in completing Section

207 of Cr.P.C. stage. Both of them relied on the docket proceedings of the trial Court.

18. It is also relevant to note that the petition filed by the petitioner/A.6 vide Crl.P.No.5468 of 2023 for furnishing electronic data filed by the CBI along with supplementary charge sheets are pending. CBI filed a memo on 05.07.2024. Two hard discs were furnished. There were 18 items which contain lakhs of files and admittedly, the CBI wanted to rely on all those files for the sake of conducting trial. .

19. Perusal of the record would reveal that CBI Court has taken assistance of the FSL Expert. Thereafter, the CBI filed a memo dated 05.07.2024 to identify the documents sought by the petitioner/A.6.

20. There are about 300 witnesses and voluminous documents. At the cost of repetition as stated supra, the aforesaid Sessions Case is at the stage of compliance of Section 207 Cr.P.C. There is no likelihood of commencement of trial in near future. Admittedly, the petitioner herein is an employee of Uranium Corporation India Limited.

21. In the light of the same, it is also relevant to note that in **Manish Sisodia vs. Directorate of Enforcement**[1], the Apex Court considered the right of an accused under Article 21 of the Constitution of

[1] Crl.A.No.-----of 2024 (arising out of SLP (Crl) No.8781 of 2024)

India. also delay in commencement of trial and the aspect of accused therein in prolonging the proceedings.

22. In the said case, the Apex Court considered the fact that the Apex Court expected that the trial to be concluded within a period of 6 to 8 months. Liberty was granted to approach afresh if the trial did not conclude within the period of 6 to 8 months. The liberty was also granted in case the trial proceeded at a snail's pace in next three months.

23. The Apex Court also considered the application filed for bail in **Javed Gulam Nabi Shaikh vs. State of Maharashtra**[2] wherein the accused was prosecuted under the provisions of the Unlawful Activities (Prevention) Act, 1967. The Apex Court surveyed the entire law right from the judgment of Apex Court in the cases of **Gudikanti Narasimhulu vs. Public Prosecutor, High Court of Andhra Pradesh**[3] **Shri Gurbaksh Singh Subbia vs. State of Punjab**[4], **Hussainara Khatoon vs. Home Secretary, State of Bihar**[5], **Union of India vs. K.A.Najeeb**[6], and **Satender Kumar Antil vs. Central Bureau of Investigation**[7], and observed as follows:-

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[2] 2024 SCC OnLine SC 1693
[3] (1978) 1 SCC 240: 1977INSC 232
[4] (1980) 2 SCC 565: 1980 INSC 68
[5] (1980) 1 SCC 81 : 1979 INSC 34
[6] (2021) 3 SCC 713: 2021 INSC 50
[7] (2022) 10SCC 51: 2022 INSC 690

"If the State or any prosecuting agency including the Court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime."

24. It is also relevant to note that in **Gudikanti Narasimhulu** (supra), it is observed as follows:-

10. In the aforesaid context, we may remind the trial Courts and the High Courts of what came to be observed by this Court in Gudikanti Narasimhulu vs. Public Prosecutor, High Court reported in (1978) 1 SCC 240. We quote:

"What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [(R.v Rose-1898 18 Cox]:

"I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the, magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial."

53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an

> exception is, at times, followed in ach. On account of non-grant of bail even in straight breach. forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial Courts and the High Courts should recognize the principle that 'bail is rule and jail is exception."

25. The Apex Court also considered the principle laid down by it in **Gudikanti Narasimhulu** (supra), the objective to keep a person in judicial custody pending trial or disposal of an appeal is to secure the attendance of the prisoner at trial.

26. The Apex Court also considered the apprehension expressed by the Directorate of Enforcement that there is possibility of tampering the evidence. The Apex Court observed that the case largely depends on the documentary evidence which was already seized by the prosecution. With the said observations, the Apex Court granted bail to the petitioner therein.

27. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial. Article 5 (3) of the European Convention on Human Rights provides that every one arrested or detained shall be entitled to trial within a reasonable time or to release pending trial. Even under our Constitution, though speedy trial is not specifically enumerated as a fundamental right, it is implicit in the broad sweep and content of

Article 21 as interpreted by the Apex Court in **Maneka Gandhi v. Union of India**[8]

28. Article 11(1) of the Universal Declaration of Human Rights states that every person accused of any penal offence is presumed to be innocent until proven guilty. While this is a rudimentary tenet in criminal law jurisprudence which has also been upheld by the Hon'ble Supreme Court.

29. Origins of bail could be traced to clause 39 of Magna Carta which read: "No free men shall be seized or imprisoned or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land".

30. In **Jalaluddin Khan vs Union of India**[9] the Apex Court held:-

> "When a case is made out for a grant of bail, the Courts should not have any hesitation in granting bail. The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the law. "Bail is the rule and jail is an exception" is a settled law. Even in a case like the present case where there are stringent conditions for the

[8][(1978) 2 SCR 621 : (1978) 1 SCC 248].
[9] 2024 INSC 604

grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied. The rule also means that once a case is made out for the grant of bail, the Court cannot decline to grant bail. If the Courts start denying bail in deserving cases, it will be a violation of the rights guaranteed under Article 21 of our Constitution"

31. In **Union of India vs K.A. Najeeb**[10] the Apex Could while considering the duration for completion of the trial held:-

"12. Even in the case of special legislations like the Terrorist and Disruptive Activities (Prevention) Act, 1987 or the Narcotic Drugs and Psychotropic Substances Act, 1985 ("the NDPS Act") which too have somewhat rigorous conditions for grant of bail, this Court in Paramjit Singh v. State (NCT ofDelhi) [Paramjit Singh v. State (NCT of Delhi), (1999) 9 SCC 252 : 1999 SCC (Cri) 1156], Babba v. State of Maharashtra [Babba v. State of Maharashtra, (2005) 11 SCC 569 : (2006) 2 SCC (Cri) 118] and Umarmia v. State of Gujarat [Umarmia v. State of Gujarat, (2017) 2 SCC 731 : (2017) 2 SCC (Cri) 114] enlarged the accused on bail when they had been in jail for an extended period of time with little possibility of early completion of trial. The constitutionality of harsh conditions for bail in such special enactments, has thus been primarily justified on the touchstone of speedy trials to ensure the protection of innocent civilians.

[10](2021) (3) SCC 713

32. In **Kalyan Chandra Sarkar Vs. Rajesh Ranjan alias Pappu Yadav**[11], the Apex Court explained parameters to be taken into consideration for grant of bail by the courts which are as follows:-

> "11. The law in regard to grant or refusal of bail is very well-settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:
>
> (a) the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.
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> (b) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.
>
> (c) prima facie satisfaction of the court in support of the charge."

33. In the light of the same, it is relevant to note that in the present case, the petitioner/A.6 is in jail from 14.04.2023 till today. He is an employee in Uranium Corporation of India Limited. The Sessions Case is at the stage of compliance of Section 207 of Cr.P.C. There is no likelihood of commencement of trial.

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[11]( 2004) 7 SCC 528

34. Learned Special Public Prosecutor for CBI would contend that there are 5 crucial witnesses, i.e. L.W.9, 31, 61, 110 and 218. Till their evidence is completed, the bail may not be granted to the petitioner herein. Otherwise, there is every possibility of the petitioner threatening the said witnesses and interfering with the trial. As discussed supra, the said Sessions Case is at the stage of compliance of Section 207 of Cr.P.C. There are 300 witnesses. Recording the evidence of L.W.218 will certainly take some time. If the petitioner threatens any witness including L.Ws.9, 31, 61, 110 and 218, the CBI or 2nd respondent can file an application seeking cancellation of bail.

35. It is also apposite at this juncture to align with the now settled principle postulated by Justice V.R.Krishna Iyer in **State of Rajasthan, Jaipur vs. Balchand @ Baliay**[12] that bail is rule and jail is an exception.

36. As discussed supra, the petitioner/A.6 name was not arrayed in the charge sheet dated 26.10.2021, First Supplementary Charge sheet dated 07.11.2022. He was arraigned in the Second Supplementary Charge sheet. The allegations against him are conspiracy and destruction of evidence. He is an employee of Uranium Corporation of India Limited. There is dispute with regard to delay in compliance of Section

[12] AIR 1977 2447

207 of Cr.P.C. According to CBI and 2nd respondent, the petitioner is delaying the same intentionally. According to the petitioner, there is no delay on his part and the delay is on the part of the CBI. However, the said aspect will be considered by the trial Court. On the said ground, bail cannot be denied to the petitioner/A.6 who is in jail since 14.04.2023.

37. The said aspects were not considered by this Court in the earlier bail orders dated 04.09.2023 and 03.05.2024 and therefore, this Court is of the considered view that the petitioner herein/A.6 is entitled for regular bail on imposition of certain conditions.

38. In the result, the Criminal Petition is allowed granting bail to the petitioner herein/A.6 on the following conditions:-

i. The petitioner herein/A.6 is directed to be released on bail on his executing a personal bond for a sum of Rs. 2,00,000/- (Rupees two lakhs only) with two sureties for likesum each to the satisfaction of the learned Principal Special Judge for CBI Cases, Hyderabad.

ii. Petitioner shall report before the SHO, Pulivendula Police Station, Kadapa District, weekly once i.e. on every Sunday between 10 A.M. to 5 PM.

iii. Petitioner herein shall not interfere with the trial in S.C. No.1 of 2023 pending on the file of Principal Special Judge for CBI Cases, Hyderabad, in any manner directly or indirectly.

iv. If the petitioner is holding passport, he shall surrender his original passport before the trial Court and shall not leave the country without permission of the trial Court.

v. Liberty is granted to the CBI and 2nd respondent to seek cancellation of bail granted to the petitioner/A.6 in the event of petitioner/A.6 interfering with the trial in S.C.No.1 of 2023 pending on the file of Principal Spl. Judge for CBI Cases, Hyderabad and threatens any witness.

vi. The petitioner shall cooperate with the trial Court in concluding the trial in S.C.No.1 of 2023.

As a sequel thereto, miscellaneous petitions, if any, pending in the criminal petitions, shall stand closed.

**JUSTICE K. LAKSHMAN**

**Date:21.08.2024.**
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