

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

CRIMINAL PETITION No.7710 of 2022

ORDER:

This Criminal Petition is filed under Sections 437 & 439 of Criminal Procedure Code ('Cr.P.C.' in short), seeking regular bail, by the petitioner/accused in **Crime No.RC.6/E/2022-CBI/EO-III/NEW DELHI** of Anti Corruption Bureau Police Station, Visakhapatnam, registered for the offences punishable under Sections 153A, 504, 505(2) and 506 of the Indian Penal Code 1908 ('IPC' in short) and Section 67 of Information Technology Act, 2000.

2. The facts of the case, in brief, are that on the complaint lodged by the Registrar General, High Court of Andhra Pradesh, on the allegation that the key personnel, who are occupying prominent posts in the State of Andhra Pradesh, intentionally targeting the Hon'ble Judges gave interviews, gave speeches attributing motives of caste and corrupt allegations on some of the Hon'ble Supreme Court Judges and High Court in delivering orders/judgments and they posted abusive, life threatening and intimidating posting against the Judges in social media i.e. Facebook and Twitter over recent

judgments/orders delivered by the Hon'ble Judges of the High Court of Andhra Pradesh. Hence, the present crime was registered.

3. Heard Sri M. Vidyasagar, learned Counsel for the petitioner and Sri N.Harinath, learned Deputy Solicitor General for the respondent-State.

4. Learned counsel for the petitioner, in elaboration to what has been raised in the grounds, contended that after issuance of Section 41-A Cr.P.C. notice, dated 12.09.2022 and on the same day, without following the guidelines issued in **Arnesh Kumar v. State of Bihar**¹, the petitioner was arrested and remanded to judicial custody on the vague ground that the petitioner did not cooperate with the investigation.

It is also contended that none of the allegations in the FIR attract the provisions of Sections 153-A, 504, 505(2) and 506 of the Indian Penal Code and Section 67 of the Information Technology Act, 2000 as *mens rea* is absent in the allegations. Learned counsel also relied on the judgment

¹ (2014) 8 SCC 273

of the Hon'ble Supreme Court in ***Sanjay Chandra vs. Central Bureau of Investigation***² wherein it is held that

"In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty."

Further, it is contended that *prima facie* case is not made out against the petitioner warranting arrest, as the petitioner has fully cooperated with the investigation and further she is willing to cooperate.

It is also submitted that there are no criminal antecedents against the petitioner. Some of the accused in similar crimes were already enlarged on bail.

Learned counsel further contended that the petitioner is languishing in jail since 12.09.2022 and he filed a memo duly enclosing the medical reports of the petitioner, where it

² (2012) 1 Supreme Court Cases 40

discloses that the petitioner has a gynecic problem and her pregnancy got miscarriage and her mental health also affected and draw the attention of this Court to the said reports and sought to consider enlarging the petitioner on regular bail.

5. On the other hand, the learned Special Public Prosecutor for C.B.I. opposed the Criminal Petitions on the ground that the petitioner has deliberately made wild and reckless comments and allegations both against the High Court and also the sitting Judges of the High Court. Therefore, he would submit that she is not entitled for bail, however, this Court may consider bail on humanitarian grounds and also on medical condition of the petitioner.

6. On perusal of the material on record it is evident that though the petitioner has participated and made posting against the institution. However, considering the submissions of the both the counsel and further the medical record reveals that the petitioner's pregnancy got miscarriage and also by taking the petitioner's mental agony and also on humanitarian grounds and health condition of the petitioner, this Court is

inclined to grant bail to the petitioner on the following conditions:

(i) The petitioner shall be released on bail on her executing self bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties for a like sum each to the satisfaction of the learned V Additional Metropolitan Magistrate, Vijayawada;

(ii) On such release, the petitioner shall appear before the Investigating Officer whenever called for the purpose of investigation; and

(iii) The petitioner shall not directly or indirectly contact any other witnesses under any circumstances and any such attempt shall be construed as an attempt of influencing the witnesses and shall not tamper the evidence and shall cooperate with the investigation. The petitioner should not indulge the activities as alleged and in view of any violation would be noticed, prosecution is at liberty to move an application against the petitioner;

Further, the petitioner shall scrupulously comply with the above conditions and if there is breach of any of the above conditions, it will be viewed seriously and it also entails

cancellation of the bail and in such case prosecution shall move appropriate application for such cancellation.

However granting of bail to the petitioner should not be precedent for others and no principle of parity can be claimed by the others.

It is made clear that this order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law and the findings in this order be construed as expression of opinion only for the limited purpose of considering the regular bail in the above crime and shall not have any bearing in any other proceedings.

Accordingly, the Criminal Petition is **allowed**.

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

Date : 30.09.2022

SPP

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