

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY, THE FIFTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY ONE

:PRESENT:
THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO: 8108 OF 2021

Between:

V. Bharath Kumar, S/o. V. Jaya Kumar,

Petitioner/Accused

AND

The State of Telangana, through P.S., Tukaramgate, Rep. by its Public Prosecutor, High Court of Telangana, Hyderabad.

Respondent/Complainant

Petition under Section 438 of Cr.P.C, praying that in the circumstances stated in the petition and the grounds filed therein, the High Court may be pleased to enlarge the Petitioner/Accused on bail in the event of his arrest in Crime No.233/2021 of P.S. Tukaramgate dated 18.10.2021;

The petition coming on for hearing, upon perusing the Petition and the grounds filed therein, and upon hearing the arguments of Sri Karam Chendu Komireddy, Advocate for the Petitioner, and of the Asst. Public Prosecutor, for the Respondent, the Court made the following.

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO. 8108 OF 2021

ORDER :

This Criminal Petition under Section 438 Cr.P.C. is filed by the petitioner / accused seeking anticipatory bail in Crime No. 233 of 2021 of SHO, Tukaramgate Police Station, registered for the offences punishable under Sections 406, 420, 504 and 506 IPC.

2. Heard learned counsel for the petitioner / accused as well as learned Assistant Public Prosecutor appearing for respondent / State. Perused the material on record.

3. The allegations of the prosecution, in brief, are as under:

On 18.10.2021 at 15.30 hours, the police received complaint from one Sri B. Kashi Ram stating that one person by name V. Bharath Kumar, Director of Eagle Immigrations and Eegle Expert Immigrations Private Limited, East Maredpally, promised that he would provide job abroad to the complainant and asked to pay Rs.10,00,000/-. Between 08.03.2021 and 04.04.2021, the complainant paid Rs.8,00,000/- through cheque and Rs.2,00,000/- by way of cash. On 05.05.2021, even after repeated requests, he was not provided with job. Further, when petitioner is making efforts to leave the country, present report is lodged. Basing on the same, the subject crime is registered.

4. Learned counsel for the petitioner *Sri Karam Chendu Komireddy* submits that though the punishment prescribed for the

aforesaid offences is below seven years and the police, having issued notice under Section 41-A Cr.P.C., still are not following procedure contemplated under the said section and threatening the petitioner to enter into compromise with the complainant.

5. In fact, challenging the high-handed action of the respondent – police, the petitioner filed W.P. No. 27774 of 2021 and this Hon'ble Court was pleased to pass interim order dated 08.11.2021, which reads as under:

“Main grievance of petitioner is that police are not following procedure contemplated under Section 41-A Cr.P.C. and guidelines issued by the Supreme Court in *Arnesh Kumar v. State of Bihar* (AIR 2014 SC 2756). Petitioner is sole accused in FIR No. 233 of 2021, P.S. Tukaramgate registered for the offences under Sections 406, 420, 504 and 506 IPC.

Learned counsel for the petitioner submits that all the offences are bailable with less than seven years imprisonment and mandatory procedure under Section 41-A Cr.P.C. is required to be followed.

Notice before admission.

Personal notice is permitted to Respondent No.5.

Learned Assistant Government Pleader for Home to get instructions by the next date of hearing.

Post on 15.11.2021.

In case petitioner is required for the purpose of investigation, Respondent No.4 – Station House Officer, Tukaramgate Police Station is directed to follow procedure under Section 41-A Cr.P.C. and guidelines issued by the Supreme Court in *Arnesh Kumar's case*.”

6. Learned counsel for the petitioner submits that in spite of the above order passed by this Court, the respondent –

police are pressurizing the petitioner to enter into compromise with the complainant and threatening to arrest him.

7. When the punishment for the aforesaid offences is below seven years, the respondent – police are bound to follow the procedure contemplated under Section 41-A Cr.P.C. and also the guidelines issued by the Hon'ble Apex Court in **Arnesh Kumar v. State of Bihar**¹. Further, the Hon'ble Apex Court has also provided remedies to the aggrieved party, if the provisions under Section 41-A Cr.P.C. are not followed by the police officers as well as the judicial officers.

8. If the petitioner is aggrieved by the action of the police in not following the procedure contemplated under Section 41-A Cr.P.C. and resorting to other means and measures by threatening him to compromise the matter, petitioner is at liberty to initiate appropriate proceedings against the officers concerned. It is further directed that having issued notice under Section 41-A Cr.P.C., the police are bound to follow the procedure and the guidelines issued by the Hon'ble Apex Court.

9. Hence, police are directed to adhere to the procedure contemplated under Section 41-A Cr.P.C. and also the guidelines issued by the Apex Court in **Arnesh Kumar's case** (supra) scrupulously. Any deviation in this regard will be viewed seriously. After passing this order, learned counsel for the

¹ AIR 2014 SC 2756

petitioner requested for a copy thereof on the same day, else police may take coercive steps against the petitioner.

10. The bail petitions are heard by the Court as expeditiously as possible and orders are also passed immediately. The difficulty and the delay, however, is in dispatching the certified copies of the orders. Once the signed orders leave the Chambers of the Judge and by the time the advocate/client receives the certified copy it has to pass through several phases of scrutiny and approval. In some cases, it may take days together for dispatching the order due to invariable reasons. This procedure of dispatching the order copies has been followed by the Courts from a very long time. *Justice Krishna Iyer* once said that 'our judicial system is 200 years behind when compared to developed countries'. In this advanced age of technology, we should make use of technology in improving the administration of justice. It will enhance the efficiency and we will be able to achieve the goal of giving timely justice to the needy.

11. Protection of personal liberty of an individual is, undeniably, a constitutional duty of this Court. Our criminal justice system always gives paramount consideration to the protection of the rights of the accused. Article 21 of the Constitution of India mandates that the personal liberty of an accused can be curtailed only after strict compliance with the procedure established by law. Sections 438 and 439 Cr.P.C. ensure that the accused is not deprived of his personal liberty arbitrarily. The Hon'ble Apex Court in catena of cases held that

'speedy adjudication process is one of the main facets that constitute the essence of access to justice and without it, access to justice as a constitutional value will be a mere illusion'. Denial of this right undermines public confidence in the justice-delivery system. It is also a settled law that the right of an accused to have his bail application heard by the Court within a reasonable time has been entrenched as a constitutional liberty. At the same time, disposal of bail application without furnishing the order copy within a reasonable time will not place the accused in a better position. Mere emphasizing that an accused has an indefeasible fundamental right to bail itself is not sufficient without furnishing the copy of the order.

12. This is high time, the Courts shall address these issues with a progressive approach by adopting the innovative methods.

13. The Hon'ble Apex Court has expressed the concern that serious deficiency in the criminal judicial system is the delay in communication of orders, which we need to address on war-footing, because it touches upon the human liberty of under-trialers / convicts. The Hon'ble Apex Court also introduced a mechanism for speedy communication of bail orders to prisons under an electronic transmission channel known as FASTER (Fast and Secured Transmission of Electronic Records).

14. Hence, this Court feels that an alternative mechanism shall be evolved to address the plight of these under-trial prisoners / accused.

- (a) Parties / Advocates shall download the order copy from the High Court's Website along with case details which are available in the case status information.
- (b) While filing the memo on behalf of accused for furnishing sureties, the Advocate shall state in the Memo that he / she has downloaded the order copy from the High Court's Website. The Administrative Officer / Chief Ministerial Officer of the Court concerned shall verify the order from the High Court's Website and make an endorsement to that effect and then shall place the same before the Court.
- (c) The Public Prosecutor shall also obtain necessary instructions in this regard and assist the Court.
- (d) The Presiding Officer, on the same day, shall dispose of the same and dispatch the release order to the jail authorities concerned forthwith through e-mail or any other electronic mode.
- (e) In cases of anticipatory bail, the burden to verify the authenticity of the copy is on the Station House Officer concerned and if necessary, he should obtain necessary instructions from the Public Prosecutor's Office and complete the process on the same day expeditiously as per law.
- (f) The jail authorities on receipt of the release order shall release the accused forthwith.
- (g) Registrar (Judicial) shall communicate copy of this order to
 - (1) The Principal Secretary for Home Affairs, State of

- Telangana, 2) The Director General of Police, State of
Telangana, 3) The Director of Prosecution, who, in turn,
shall sensitize the police officers / Station House Officers /
Public Prosecutors and ensure implementation of this order.
- (h) Registrar (Judicial) shall communicate copy of this order to
all the Principal District Judges in the State, who, in turn,
shall sensitize all the Presiding Officers and ensure
implementation of this order.
- (i) Registrar (Judicial) is further directed to circulate the copy
of this order to all the Bar Associations in the State through
the Principal District Judges, so that they can effectively
address their client's cause.
- (j) Registrar (Judicial) shall also issue a separate notification in
this regard and the same shall be displayed in the High
Court's Website.
- (k) These directions will apply to all bail application including
bails in Criminal Revision as well as Criminal Appeals.

This order shall come into force from 22.11.2021.

15. The Judicial Officers in the State shall bring to the
notice of the Registrar (Judicial) the difficulties / hitches, if any in
implementing the directions of this Court. In case of anticipatory
bails, the police officials shall bring to the notice of the Public
Prosecutor, High Court about their difficulties in implementing the
orders of this Court and the Registrar (Judicial) and learned Public
Prosecutor shall place the same before this Court by the next date
of hearing ie. 22.12.2021.

16. These directions will be in force until further orders or suitable Rules are framed in this regard. It is needless to mention, if any clarification or modification is required for effective implementation, they will be examined accordingly on the next date of hearing.

17. In spite of all odds, determined efforts are required for achieving the goal. Ways and means have to be found out by constant thinking and monitoring. It is the responsibility of all the stakeholders to uphold the public confidence in the justice-delivery system by giving timely justice which includes furnishing the copies of orders / judgments.

Post on 22.12.2021.

//TRUE COPY//

SD/- K. VENKAIAH
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Registrar (Judicial-I), High Court of Telangana, at Hyderabad ✓
2. The Section Officer, Special Officers Section, High Court of Telangana, at Hyderabad ✓
3. Two CCs to Public Prosecutor, High Court of Telangana, at Hyderabad (BY SPL. MESSENGER)
4. One CC to Sri Karam Chendu Komireddy, Advocate (OPUC) ✓
5. one Spare copy

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO: 8108 OF 2021

Between:

V. Bharath Kumar, S/o. V. Jaya Kumar, Aged 39 years, Occ. Business,
R/o.H.No.10-1-577/1, Nehru Nagar, Mareredpally, Secunderabad, Telangana-
500026.

...Petitioner/Accused

AND

The State of Telangana, Through Police Station Tukaramgate, represented by
its Public Prosecutor, High Court, Telangana, Hyderabad.

...Respondent/Complainant

Petition under Section 438 of Cr.P.C praying that in the circumstances stated
in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased
to enlarge the Petitioner/Accused on bail in the event of the arrest in Crime No.233
of 2021 of Police Station Tukaramgate dated 18/10/2021.

This Petition coming on for hearing, upon perusing the Memorandum of
Grounds of Criminal Petition and upon hearing the arguments of Sri KARAM
CHENDU KOMIREDDY, Advocate for the Petitioner and the Public Prosecutor on
behalf of the Respondent.

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE M. LAXMAN

CRIMINAL PETITION No.8108 OF 2021

ORDER:

This Court, by order dated 15.11.2021, has passed certain guidelines with regard to the expeditious availability of the orders, which includes regular as well as anticipatory bails. After framing certain guidelines, there were further direction from this Court seeking difficulties from the judicial officers or from the police officials in carrying out the directions given by this Court for availability of the bail orders and further directed to find out such difficulties by the Registrar (Judicial) from the judicial officers and Public Prosecutor in respect of difficulties faced by the police officers in implementing the guidelines. As per the endorsement of the Registrar (Judicial) on the docket proceedings, it is stated that the judicial officers in the State are not facing any difficulties in carrying out the directions directed by this Court in the present petition with regard to the availability and production of the order copies and Public Prosecutor also stated that their police officers also have no difficulties in carrying out such directions.

2. In the light of the statement made by the Registrar (Judicial) as well as Public Prosecutor, no further directions are required in this Criminal Petition.

3. Recording the same, the Criminal Petition is closed.

Miscellaneous petitions, if any, pending, shall stand closed.

//TRUE COPY//

**SD/-K.SAILESHI
ASSISTANT REGISTRAR**


SECTION OFFICER

To,

1. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
2. One CC to SRI. KARAM CHENDU KOMIREDDY, Advocate [OPUC]
3. Two CD Copies
4. One Spare Copy


MMK