

[3332]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

TUESDAY, THE SIXTH DAY OF SEPTEMBER,

TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CRIMINAL PETITION NO: 6767 OF 2022



Between:

Ajju @ K.S.Hidayathulla, S/o Shiak Shafiulla, aged about 38 years, R/o D.No.26-4-2748, Melapuramu, Hindupur town, Anantapuram District.

...Petitioner/Accused No.6

AND

The State Inspector Police, Hindupur One Town Police Station, rep by the Public Prosecutor, High Court of AP, Amaravathi.

...Respondent/Complainant

Petition under Section 438 of Cr.P.C is filed praying that in the circumstances stated in memorandum of grounds of Criminal Petition, the High Court may be pleased to Grant Anticipator Bail to the Petitioners/Accused No.6 and direct the Station House Officer, Hindupur one Town Police Station to enlarge the Arrest in the event of arresting the Petitioner/A6 in Crime No.209 of 2022 on the file of the Hindupur one Town Police Station, Anantapuram District.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds of criminal and upon hearing the arguments of Sri P.V.Venkata Ravi Sankar, Advocate for the Petitioner and Public Prosecutor for the Respondent, the Court made the following

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CRIMINAL PETITION NO.6767 OF 2022

ORDER:-

This Criminal Petition under Section 438 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C."), is filed by the petitioner/A6, seeking to grant pre-arrest bail in Crime No.209 of 2022 of Hindupur I Town Police Station, Anantapuramu District, registered for the offence punishable under Sections 406, 420 of the Indian Penal Code (for short 'IPC') and Section 9 (1) of Andhra Pradesh Gaming Act, 1974 and Section 34(A) of Andhra Pradesh Excise Act, 1968.

2. The case of the prosecution, in brief, is that on 06.08.2020, on reliable information, the Sub-Inspector, Hindupur One Town Police Station along with his staff and mediators reached the thorny bushes, Chowdeswari Colony, Hindupur Town and found four persons i.e., three women and one male person. They used to collect money from the people by writing down the matka numbers and saying that if they match the matka number, they will give Rs.80/- per one rupee and also selling Karnataka State liquor. On seeing the police in the uniforms, they tried to run away. But the sub inspector, with the help of his staff caught the four persons, arrested them and

seized the cash of Rs.8,390/-, 75 Tetra Packets of HAYWARDS CHEERS WHISKY, matka chits. Basing on the confession of A1 to A4, A6 was arrayed and the present crime was registered.

3. Heard Sri P.V.Venkata Ravi Sankar, learned counsel for the petitioner and learned Special Assistant Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner, in elaboration, contended that petitioner/Accused No.6 was falsely implicated in the present crime basing on the confession statement of co-accused. He further contended that the petitioner never committed such acts as alleged. Learned counsel for the petitioner further contended that the petitioner has already preferred a bail application vide bearing CrI.M.P.No.348 of 2022 which was dismissed by the trial court on the ground that investigation is pending. It is further contended that the petitioner granted pre arrest bail on 05.08.2022 in another crime vide Crime No.590 of 2022. On the next date of the said order, the present crime was registered against the petitioner. It is further submitted that in the event of his arrest, his reputation in the family and in the society will be affected. Hence, prays this Court to consider this application.

5. On the other hand learned Special Assistant Public Prosecutor submits that though basing on the confession statement of A1 to A4, the petitioner's name is implicated in the present crime but, if the petitioner is granted anticipatory bail, he may tamper with the prosecution evidence, hence, opposed the petition and prayed for dismissal of the same.

6. A perusal of the record, it shows that, the petitioner was implicated basing on the confession statement of co-accused.

7. In **Bullu Das Vs. State of Bihar**¹, while dealing with the confessional statements made by the accused persons before a police officer, the Supreme Court held as under:

"7. The confessional statement, Ex. 5, stated to have been made by the appellant was before the police officer in charge of the Godda Town Police Station where the offence was registered in respect of the murder of Kusum Devi. The FIR was registered at the police station on 8-8-1995 at about 12.30 p.m. On 9-8-1995, it was after the appellant was arrested and brought before Rakesh Kumar that he recorded the confessional statement of the appellant. Surprisingly, no objection was taken by the defence for admitting it in evidence. The trial court also did not consider whether such a confessional statement is admissible in evidence or not. The High Court has also not

¹ (1998) 8 SCC 130

considered this aspect. The confessional statement was clearly inadmissible as it was made by an accused before a police officer after the investigation had started."

8. A perusal of record shows that nothing has been seized from the possession of the petitioner and he was shown as accused based on confession statement of A1 to A4 and as ~~the~~ A1 to A4 have got regular bail and taking into consideration the observations made in the above referred citation, this Court is inclined to grant pre-arrest bail to the petitioner, however taking due care of the apprehension of the learned Special Assistant Public Prosecutor into consideration on the following conditions:

(i) The petitioner shall be released on bail in case of his arrest in Crime No.209 of 2022 of Hindupur I Town Police Station, Anantapuramu District, on his 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 Station House Officer, Hindupur I Town Police Station, Anantapuramu District;

(ii) The petitioner shall appear before the Station House Officer, Hindupur I Town Police Station, Anantapuramu District,

once in a week i.e. on every Sunday between 10.00 a.m., and 12.00 noon, till filing of the charge sheet; and

(iii) The petitioner shall not make any attempt to tamper with the prosecution evidence. He shall make himself available to the investigating officer whenever required by them to facilitate proper investigation in this case.

(iv) The petitioner shall not directly or indirectly contact any 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 co-operate with the investigation.

Further, the petitioner shall scrupulously comply with the above conditions and in case of infraction of the same, the prosecution is at liberty to move appropriate application for cancellation of bail.

Accordingly, the Criminal Petition is allowed.

Miscellaneous applications, pending if any, shall stand closed.

Sd/- K. SRINIVASA RAJU
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

For Assistant Registrar

• To,

1. The Inspector Police, Hindupur One Town Police Station, Anantapuram District.
2. One CC to Sri. P.V.Venkata Ravi Sankar, Advocate [OPUC]
3. Two CCs to Public Prosecutor, High Court of AP [OUT]
4. One spare copy

MM

www.ecourtsindia.com

HIGH COURT

RCJ

DATED:06/09/2022

ORDER

CRLP.No.6767 of 2022

ALLOWED

