

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

TUESDAY, THE TWENTY SIXTH DAY OF MARCH
TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE T MALLIKARJUNA RAO
CRIMINAL PETITION NO: 1052 OF 2024



Between:

Pinapala Uday Bhushan

Petitioner/Accused

AND

The State of Andhra Pradesh, Rep. by its Public Prosecutor, High Court of
Andhra Pradesh at Amaravati, Guntur District.

Respondent/Defacto Complainant

Petition under Section 438 of Cr.P.C, praying that in the circumstances stated in the memo of grounds filed in support of the Criminal Petition, the High Court may be pleased to enlarge the petitioner herein on anticipatory bail in connection with Crime in FIR No. 45 OF 2024 on the file of Pulivendula Police Station, Kadapa District or direct the investigating officer in Crime in FIR No. 45 OF 2024 on the file of Pulivendula Police Station, Kadapa District to follow strictly and in letter and in spirit the law laid down by the Hon'ble Supreme Court of India in the case of Arnesh Kumar Vs State of Bihar (2014) 8 SCC 273 in the event of the arrest of the petitioner herein in the interests of justice

COUNSEL FOR THE PETITIONER : **SRI UMESH CHANDRA P**

COUNSEL FOR THE RESPONDENT : **PUBLIC PROSECUTOR**

THE COURT MADE THE FOLLOWING ORDER

in facebook in the name of defacto complainant and posting explicit and defamatory content about Smt.Y.S.Sharmila and Smt.Y.S.Sunitha and abusing them in filthy language. The propagation of such false narratives not only inflicts irreparable harm upon the affected families but also subjects the targeted individuals to unwarranted public scrutiny and emotional distress and also defacto complainant defamed in the eyes of society.

3) Heard. Perused the record.

4) As seen from the record, it is not in dispute that the offences alleged against the petitioner herein are less than seven years of imprisonment and the investigation officer had issued Section 41A Cr.P.C. notice to the petitioner. It is submitted by the learned counsel for the petitioner that the petitioner could not appear before the investigation officer because of apprehension that the petitioner was housed at the police station for issuance of Section 41A Cr.P.C. notice, the defacto complainant intimidating the petitioner in the police station itself stating that the defacto complainant would see that the petitioner will be assassinated. It is further submitted by the learned counsel for the petitioner that the petitioner herein is aged about 58 years and he was undergone several surgeries including a stunt to his heart.

5) Learned Assistant Public Prosecutor relies on a decision reported in **ABDUL KAVI Vs. STATE OF TELANGANA**¹, wherein it was held that:

"To maintain an anticipatory bail petition, the applicant must show that he has 'reason to believe' that he may be arrested in a non-bailable offence and use of the expression 'reason to believe' shows that the applicant's

¹ 2019 LawSuit (TS) 33

belief that he may be arrested must be founded on reasonable grounds and mere 'fear' would not amount to 'belief', inasmuch as the grounds on which the belief of the applicant that he may be arrested is based must be capable of being examined."

6) Learned counsel for the petitioner relied upon a decision reported in **Sri. Ramappa @ Ramesh S/o. Dharmanna Vs. the State of Karnataka**, wherein it was held that:

"24. Section 41A of the Code operates in a situation where there is no arrest and prescribes the course of option to be adopted by a police officer in case he decides not to arrest any person. Till the time any person is not arrested, he is entitled to maintain an application for grant of anticipatory bail subject to, of course, the applicability of any other law to the contrary.

25. Section 41A of the Cr.P.C. defers the arrest until and unless sufficient evidence is collected, so as to produce or forward the accused to the custody of the Court. The apprehension of arrest, thus does not completely vanish away on the issuance of notice of appearance under Section 41A of the Cr.P.C., and hence, the question being raised in maintainability of an application under Section 438 Cr.P.C., during the pendency of notice being issued under Section 41A Cr.P.C. or during the compliance of the terms of such notice, is completely unwarranted and is not in tune with the provision of law. The apprehension of arrest always does exist even after issuance of notice of appearance under Section 41A Cr.P.C., and under such circumstance the Courts cannot evade to entertain an application under Section 438 Cr.P.C."

7) In the light of the above decision relied by the learned counsel for the petitioner, this Court views that there is apprehension of arrest exists, even after issuance of notice of appearance it cannot be said that the anticipatory bail application is not maintainable.

8) Considering the submissions made and the health condition of the petitioner herein, since the offences alleged against the petitioner are punishable with imprisonment of less than seven years, this Court is inclined to grant anticipatory bail to the petitioner herein, on the following conditions.

(i) The petitioner herein is directed to surrender before the Station House Officer concerned, within a period of ten days from today. On such surrender, the petitioner herein is ordered to be enlarged on bail on his executing a personal bond for Rs.20,000/- (Rupees twenty thousand only) with two sureties for the like sum each to the satisfaction of the Station House Officer concerned.

(ii) On release, the petitioner shall appear before the Superintendent of Police, Kadapa, once in a fortnight, for a period of three (3) months.

(iii) The petitioner shall co-operate with the investigation.

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

Consequently, miscellaneous applications pending, if any, shall stand closed.

Sd/- N. NAGAMMA
ASSISTANT REGISTRAR


SECTION OFFICER

//TRUE COPY//

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To,

1. The Station House officer, Pulivendula Police Station, Kadapa District
2. One CC to SRI. UMESH CHANDRA P V G Advocate [OPUC]
3. Two CCs to PUBLIC PROSECUTOR, High Court of A.P[OUT]
4. **One spare copy**

HIGH COURT

TMR,J

DATED:26/03/2024

BAIL ORDER

CRLP.No.1052 of 2024

ALLOWED

