

ITEM NO.38 Court 9 (Video Conferencing) SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Miscellaneous Application No. 528/2020 in SLP(Cr1) No. 7053/2013

(Arising out of impugned final judgment and order dated 20-01-2015 in SLP(Cr1) No. No. 7053/2013 passed by the Supreme Court Of India)

GALI JANARDHAN REDDY Petitioner(s)

VERSUS

THE STATE OF ANDHRA PRADESH Respondent(s)

(FOR ADMISSION and IA No.9291/2020-APPROPRIATE ORDERS/DIRECTIONS[TO BE TAKEN UP IMMEDIATELY AFTER FRESH MATTERS]

IA No. 9291/2020 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 58737/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

Diary No(s). 11949/2021 (II)

IA No. 61628/2021 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 61630/2021 - EXEMPTION FROM FILING AFFIDAVIT)

Date : 19-08-2021 This application was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VINEET SARAN

HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Petitioner(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr.Ranjit Kumar, Sr. Adv.
Mr Mayank Jain, Adv
Parmatma Singh, AOR
Mr.Madhur Jain, Adv

For Respondent(s) Ms. Madhavi Diwan, ASG
Mr. Sachin Sharma, Adv.
Mr. Shurodeep Roy, Adv.
Mr. Shantanu Sharma, Adv.
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

This application has been filed for waiving one of the conditions [being Condition No. (c)] imposed by this Court vide order dated 20.01.2015 while granting bail to the applicant/petitioner. The conditions are spelt out in paragraph No. 9 of the said order, which is extracted herein below:

"9. Since the investigating agency has no objection for grant of bail to the petitioner, in the facts and circumstances of the case, we deem it appropriate to grant bail to the petitioner, subject to the following conditions:

a) He shall surrender his passport, if not already surrendered, to the learned Principal Special Judge for CBI Cases, Hyderabad. If he has already surrendered his passport before the learned Principal Special Judge, that fact should also be supported by an affidavit.

b) He shall not leave the country without the leave of the learned Principal Special Judge.

c) He shall not visit the Districts of Bellary in Karnataka and District of Ananthapuram and Cuddapah in Andhra Pradesh.

d) He shall cooperate with the Court in the smooth process of trial and its early conclusion.

e) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing such facts to the court or to tamper with the evidence.

f) He shall remain present before the

learned Principal Special Judge on the dates fixed for hearing of the case without fail. If he requires to remain absent, he shall take prior permission of the learned Principal Special Judge and in case of unavoidable circumstances for remaining absent, he shall immediately appropriately intimate the learned Principal Special Judge and also to the Superintendent, CBI and request that he may be permitted to be present through the counsel.

g) Insofar as the surety amount is concerned, the petitioner shall execute a bond with two solvent sureties, in a sum of Rs.10,00,000/- (Rupees ten lakhs only) each.

h) If, for any reason the petitioner fails to comply with all the conditions as stipulated above, the respondents are at liberty to approach this Court for modification/recall of the order granting bail to the petitioner."

(emphasis supplied)

It is the Condition No. (c), which is in question in the present miscellaneous application, whereby the applicant/petitioner is restrained from visiting the District of Bellary in Karnataka and Districts of Ananthapuram and Cuddapah in Andhra Pradesh.

Heard Mr. Mukul Rohatgi and Mr. Ranjit Kumar learned senior counsel for the applicant/petitioner and Ms. Madhavi Diwan, ASG for the CBI/respondent at length.

The submission of Mr. Rohatgi, in brief, is that the

applicant/petitioner was arrested on 05.09.2011, which was pursuant to the FIR lodged in the year 2009. The applicant/petitioner was in custody for more than three years when on 20.01.2015, bail was granted to the applicant/petitioner by the aforementioned order dated 20.01.2015. It is contended that in the past more than six years since bail was granted, the applicant/petitioner has not violated any of the conditions as imposed by the aforesaid order of this Court. It is also submitted that on 08 occasions the applicant/petitioner was permitted by this Court to visit his home district Bellary in Karnataka for short periods and during these visits also, the applicant/petitioner has never violated any of the conditions imposed by this Court in the bail order. Learned counsel has further submitted that the first charge sheet was filed by the Central Bureau of Investigation (CBI) on 03.02.2011 and thereafter two supplementary charge sheets were filed, last one being dated 26.04.2014. It is contended that the charges have yet not been framed and trial is yet to commence. It is further stated that the trial is to be held before the Special Judge, CBI, Hyderabad, which is more than 300 kilometers far from each of the districts

as mentioned in Condition No. (c). It is also contended that the applicant/petitioner has never sought any adjournment and delay in the trial cannot be attributed to the applicant/petitioner. The applicant/petitioner has only once approached the Trial Court in October, 2020 for discharge, which application was withdrawn in November, 2020. The learned counsel has also stated that there is no prospect of the trial starting in the near future, even though more than a decade has passed. The contention is that there are more than 10,000 documents and 300 witnesses to be examined, out of which, according to the applicant/petitioner, only 20 are from Bellary (whereas, according to the learned ASG, 47 are from Bellary). It has also been submitted that the applicant/petitioner is merely an undertrial and has never been convicted in any case. Learned counsel has also submitted that Bellary is the hometown of the applicant/petitioner where he has not stayed for more than a decade because of orders passed in the present case and has thus been away from his family for this long period. It has, thus, been contended that the condition imposed in clause (c) of the bail order dated 02.01.2015, in the present facts, is liable to be withdrawn; and if found necessary, the matter may again

be listed after three to six months to assess the conduct of the applicant/petitioner afresh.

Per contra, Ms. Madhavi Diwan, learned ASG has submitted that all 9 accused in the present case are influential persons, and because of their conduct, the trial could not proceed expeditiously. It is submitted that on 22.07.2021, the CBI has filed a memo that they do not intend to file any further charge sheet in the matter. It is also her contention that in case Condition No. (c) of the order dated 20.01.2015 is waived, there would be serious threat to the witnesses because of the power and influence that the applicant/petitioner wields. She has also submitted that the delay has been caused because of the various applications having been filed by the other accused, as well as application for discharge filed by the applicant/petitioner and the modification of the order dated 20.01.2015 would lead to adverse effect on the trial. Learned ASG has submitted that the applicant/petitioner is enjoying his liberty by the bail having been granted and has also been permitted to visit Bellary on many occasions under order of this Court, and that there is no change in the circumstances, which

warrants modification of the bail order dated 20.01.2015. In support of the submissions, she has relied on certain documents which have now been filed across the bar at the time of hearing, and she has mainly emphasised on the contents of documents pertaining to the period prior to grant of bail in 2015. She has further submitted that for his conduct during such period, the applicant/petitioner has been charge sheeted for subverting the judicial process, including attempting to influence the Judges and hence, bail conditions ought not be modified. Learned ASG has submitted that the trial is not proceeding because of the conduct of the applicant/petitioner and the CBI cannot be blamed for the same. It has further been submitted that the bail granted to the applicant/petitioner was with the consent of the CBI only on the conditions which were imposed in the order dated 20.01.2015 and any modification of the same would materially change the basis of the bail order.

In response, Mr. Rohatgi and Mr. Ranjit Kumar, have submitted that all other accused persons are on bail without any such conditions as imposed in the case of the applicant/petitioner, and that the changed circumstance in the present case would be that even the trial has not

commenced for the last 6½ years since the applicant/petitioner was granted bail and for that reasons alone, the condition no. (c) so imposed may be withdrawn. As per the applicant/petitioner, the CBI has not made any effort to expedite the trial, and in case any orders have been passed by the Courts on the applications of other co-accused, the applicant/petitioner cannot be held responsible for the same. It is specifically submitted that the documents which have been filed by the CBI/respondent during the hearing and relied upon, relate to period prior to the grant of bail to the applicant/petitioner and the same would thus not be relevant for the present purpose. It is also submitted that there has never been any violation of the terms and conditions of the bail order dated 20.01.2015, and further that while granting permission to the applicant/petitioner to visit Bellary District vide order dated 07.06.2019, this Court had, while disposing of the application, observed that *"liberty is given to the petitioner to make an appropriate application for modification of the bail conditions."* It is therefore urged that, in the facts of this case, the withdrawal of condition no. (c) of the bail order is warranted and is

justified.

We have heard the learned counsel for the parties and perused the record.

Considering the facts and circumstances of this case and keeping in view that the trial has not even commenced for more than 12 years of the filing of the FIR and also keeping in view that the applicant/petitioner has not violated any of the conditions imposed by the bail order dated 20.01.2015, even during his visits to Bellary District under orders of this Court, we direct that Condition No. (c) as mentioned in the order dated 20.01.2015 is modified and substituted as under:-

“(c) As and when the petitioner proposes to visit any of the following districts, being District Bellary in Karnataka and Ananthapuram and Cuddapah in Andhra Pradesh, he shall give prior intimation to the Superintendent of Police of the concerned district of the date when he proposes to go to the district and further he shall also give prior intimation to the concerned Superintendent of Police of the date of his departure from the said district.”

Condition no. (h) imposed in the order dated 20.01.2015 is reiterated.

We may further observe that the Trial Court shall make every endeavour to proceed with the trial expeditiously.

List in the 3rd Week of November, 2021 on a non-miscellaneous day.

(PRADEEP KUMAR)
COURT MASTER

(ASHWANI THAKUR)
AR-CUM-PS