

THE HON'BLE SRI JUSTICE K.C. BHANU

CRIMINAL PETITION Nos.3251 AND 3252 OF 2012

COMMON ORDER:

State represented by Anti Corruption Bureau (A.C.B.) Kurnool filed the present petitions under Section 439(2) read with 482 Cr.P.C. to cancel the bail granted to A-7 and A-4 in the order, dated 16-03-2012, in Cr.I.M.P.Nos.220 and 217 of 2012 on the file of I Additional Special Judge for SPE and ACB Cases-cum-V Additional Chief Judge, City Civil Court, Hyderabad, in Cr.No.1/ACB-KUR/2012.

2. A-7 and A-4 were arrested on 10.02.2012. It is alleged that A-4 is one of the syndicate members and A-7 is the employee of the syndicate members. The highest bidders have taken the help of other members to do business in liquor shops and other persons have given bank guarantee to the Government. The case against A-7 and A-4 is that they paid mamools to the Excise officials, police officials and others. During the course of investigation, the investigating agency has not collected any incriminating material against the accused except seizing some note books to show that there was a conspiracy between the accused persons and others. The learned Judge came to conclusion that A-7 and A-4 were given to police custody and the investigating officer interrogated them thoroughly. The hand writings of A-7 were also obtained by the Investigating Officer while he was in jail. They are only Employee and Accountant respectively. Therefore, bail was granted. Challenging the same, the present petition is filed.

3. Learned Standing Counsel for the petitioner/A.C.B. contended that since the investigation is pending, the release of A-7 and A-4 at this stage may hamper with the further progress of the investigation and hence, he prays to cancel the bail granted to A-7 and A-4.

4. On the other hand, learned senior counsel appearing for A-7 and A-4 contended that the case was registered in the month of December, 2011 and four months have been elapsed; that A-7 and A-4 were interrogated thoroughly and therefore, there are absolutely no grounds to cancel the bail.

5. Cancellation of bail is entirely on a different footing than that of granting of bail. Only in certain circumstances, bail granted to the persons accused of a non-bailable offence can be cancelled viz., when they are trying to interfere with the investigation, if they threaten the witnesses or tamper with the evidence or likely to leave the jurisdiction of the Court or they may go to underground or they may repeat the offences similar to the present one, etc. The case of A-7 and A-4 does not fall under anyone of the above categories. Except on the ground that investigation is pending, there are no other grounds urged by the learned counsel for the petitioner to cancel the bail granted to A-7 and A-4. Immediately after their arrest, they were given to police custody and they were interrogated during the custody. They were in jail for 40 days prior to the granting of bail. The statutory period of conducting investigation is also over. Therefore, the petitioner cannot turn round and say that the investigation is still pending. It is the duty of the petitioner to complete the investigation within the period of 60 days if the offence is not punishable with death or imprisonment for life or 90 days if the offence is punishable with death or imprisonment for life. Therefore, the ground that the investigation is still pending cannot be considered to be a ground to cancel the bail. Considering these aspects, the Court below granted bail to the respondents. Hence, there are no grounds to allow the criminal petition and the same is liable to be dismissed.

6. Accordingly, the Criminal Petitions are dismissed.

7. Miscellaneous Petitions, pending if any, shall stand dismissed.

JUSTICE K.C. BHANU

27th April, 2012
AMD

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Date:27.04.2012

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