

A

GALI JANARDHAN REDDY

v.

THE STATE OF ANDHRA PRADESH

(Misc. Application No. 528 of 2020)

B

In

(SLP (Criminal) No. 7053 of 2013)

OCTOBER 10, 2022

[M. R. SHAH AND KRISHNA MURARI, JJ.]

C

Bail – Applicant sought modification of condition of bail – Directions issued – Applicant is accused for the offences u/s 120(B), 420, 379, 409, 468, 411, 427 and 447 of IPC, s.2 of the Indian Forest Act, 1927, r.21 r/w. Rules 4(1), 4(1)(A) and 23 of the Mines and Minerals (Development and Regulation) Act, 1957 – Appellant

D

was arrested by the CBI on 05.09.2011 – Bail was granted by Supreme Court on 20.01.2015, subject to some conditions – One of them was a condition (c) which read as “he shall not visit the Districts of Bellary in Karnataka and District of Ananthapuram and Cuddapah in Andhra Pradesh” – Thereafter, present application was filed for the modification of the condition (c) – By interim order,

E

Supreme Court modified the said condition to the extent that the applicant shall give prior intimation to the SP of his visit – Held: The applicant is facing the trial for very serious offences – In the past the apprehensions of influencing the witness are proved to be true and even the judicial officers were influenced/tried to be

F

influenced – There is a serious apprehension on the part of the CBI / investigating agency that if condition No.(c) is relaxed and/or modified and/or substituted, there would be threat to the witnesses because of the power and influence that the applicant is having – Even after a period of 11 years of filing the FIR and despite the

G

observations made by Supreme Court directing the trial to be expedited, the trial has not begun – Early conclusion of the trial would enhance the faith of people in justice delivery system – Now, direction, inter-alia, issued to the trial Court to begin the trial on day to day basis and once the trial begins the applicant-accused may be restrained from entering into the Districts of Bellary in

H

Karnataka and District of Ananthapuram and Cuddapah in Andhra Pradesh – Application disposed of. A

CRIMINAL APPELLATE JURISDICTION: Miscellaneous Application No. 528 of 2020 in Special Leave Petition (Criminal) No. 7053 of 2013.

From the Judgment and Order dated 20.06.2013 of the High Court of Judicature of Andhra Pradesh at Hyderabad in Criminal Petition No. 3632 of 2013. B

With

Diary No. 11949 of 2021. C

Ms. Meenakshi Arora, Sr. Adv., Mayank Jain, Parmatma Singh, Madhur Jain, Advs. for the Petitioner.

Ms. Madhavi Goradia Divan, ASG, Sachin Sharma, Shantanu Sharma, TS Sabarish, Shuvodeep Roy, Sudarshan K., Arvind Kumar Sharma, Advs. for the Respondent. D

The Order of the Court was passed by

M. R. SHAH, J.

1. Present application has been preferred by the applicant – original accused for an appropriate order of modification of condition No.(c) of the order dated 28.01.2015 passed by this Court in Special Leave Petition (Cri.) No.7053/2013 to the extent permitting the applicant to enter, stay and function in the Districts of Bellary in Karnataka and District of Ananthapuram and Cuddapah in Andhra Pradesh. E

2. The applicant herein is the accused in RC 17(A)/2009-CBI-HYD dated 07.12.2009 as amended on 05.09.2011, for the offences under Sections 120(B), 420, 379, 409, 468, 411, 427 and 447 of the Indian Penal Code, 1860, section 2 of the Indian Forest Act, 1927, Rule 21 read with Rules 4(1), 4(1)(A) and 23 of the Mines and Minerals (Development and Regulation) Act, 1957. That, the applicant – accused was arrested by the CBI on 05.09.2011. Prior to coming to this Court, the applicant – accused approached the learned trial Court as well as the High Court for the grant of regular bail on number of occasions. The said request of the applicant – accused was rejected *inter alia* on the ground that grant of bail to the applicant – accused may impede fair and uninfluenced investigation. That, when the applicant – accused lastly approached the F G H

- A High Court in the year 2013 by way of filing Criminal Petition No.3632/2013, vide judgment and order dated 20.06.2013 , considering the gravity of the allegations leveled against the applicant – accused, his influential status and the CBI indicated a reasonable apprehension that the accused is likely to influence the investigation if enlarged on bail, the High Court rejected the bail application. The applicant approached this Court by way of Special Leave Petition (Cri.) No.7053/2013. By an order dated 20.01.2015, the order which is sought to be now modified, this Court had released the applicant on bail subject to following conditions:
 - C “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;
 - D 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 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 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 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

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. A

10. The grant of bail to the petitioner shall be subject to any other cases that are pending against the petitioner, wherein the petitioner is yet to be granted bail by the appropriate court(s).” B

3. Present application has been preferred by the applicant – accused to modify and/or delete condition No.(c) reproduced hereinabove and thereby permit him to enter, stay and function in the Districts of Ballary in Karnataka and District of Ananthapuram and Cuddapah in Andhra Pradesh. C

4. At this stage it is required to be noted that in the year 2016 a similar request was made to delete the conditions that were imposed while granting bail. By an order dated 01.07.2016, this Court dismissed the said application, however, directed the trial Court to make an endeavour to complete the trial expeditiously. That, thereafter, one another application was made being Criminal Miscellaneous Petition No. 6534/2017 for modification of the condition imposed while granting bail which came to be rejected by this Court vide order dated 09.05.2017. That, thereafter, the present application has been preferred. By an order dated 19.08.2021, this Court while adjourning the application to third week of November, 2021, has modified and substituted the condition No.(c) as under: D

“(c)As and when the petitioner proposes to visit any of the following districts, being District Ballary 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.” F

Condition No.(h) imposed in the order dated 20.01.2015 is reiterated.” G

This Court has also observed that the trial Court shall make endeavour to proceed with the trial expeditiously.

- A 5. Thereafter, the present application is notified before the Bench for further hearing.
6. Ms. Meenakshi Arora, learned Senior Advocate has appeared on behalf of the applicant – accused and Ms. Madhavi Divan, learned ASG has appeared on behalf of the respondent – CBI.
- B 7. Ms. Meenakshi Arora, learned Senior Advocate appearing for the applicant has vehemently submitted that after the initial order was passed by this Court in the year 2015 granting bail on the conditions mentioned in the said order, the applicant has visited Bellary on 8 to 9 occasions pursuant to the permissions granted by this Court and during the said visits, the applicant has never violated any of the conditions imposed by this Court in the bail order. It is submitted that in past more than 6 to 7 years since the bail has been granted, the applicant has not violated any of the conditions as imposed. It is submitted that the trial has not proceeded further for which the applicant is not at all responsible.
- C It is submitted that the delay in the trial is not attributable to the applicant.
- D It is, therefore, requested to modify the condition No.(c) as mentioned in the order dated 20.01.2015 and permit the applicant to enter, stay and function in the Districts of Bellary in Karnataka and District of Ananthapuram and Cuddapah in Andhra Pradesh.
- E 7.1 In the alternative it is prayed to continue modification of condition No.(c) as per the order passed by this Court on 19.08.2021.
8. Present application is vehemently opposed by Ms. Madhavi Divan, learned ASG. It is vehemently submitted that CBI has strong apprehension that if the condition No.(c) so imposed by this Court in the order dated 20.01.2015 is modified and/or substituted, the applicant may influence the witnesses which may ultimately affect the trial and the judicial process. It is submitted that in past, attempts were made to influence even the Judicial Officers which is already on record. It is submitted that despite the orders passed by this Court, the trial is not proceeding because of the conduct on the part of the accused persons by filing one after another discharge applications.
- H 9. Ms. Madhavi Divan, learned ASG has submitted that therefore in case condition No.(c) of the order dated 20.01.2015 is modified, there would be serious threat to the witnesses because of the power and influence that the applicant is having. It is submitted that still as and when there is any emergency the applicant may still move this Court for

appropriate permission which may be considered on case to case basis and therefore, to that extent, the interest of the applicant can be taken care of. A

10. In response, Ms. Meenakshi Arora, learned Senior Advocate in the alternative has submitted that as the daughter of the applicant has recently delivered a child at Bengaluru and now she is at Bellary, the applicant may be permitted to visit and stay at Bellary atleast for a period of four weeks to be with his daughter. B

11. On the aforesaid alternative prayer, Ms. Madhavi Divan, learned ASG has pointed out that in fact the daughter of the applicant had delivered the child at Bengaluru and she was never at Bellary. It is submitted that only after present application was heard by this Court on 29.09.2022, in the evening the daughter of the applicant is shifted to Bellary. Therefore, it is prayed to consider the aforesaid conduct on the part of the applicant. C

12. We have heard Ms. Meenakshi Arora, learned Senior Advocate appearing for the applicant and Ms. Madhavi Divan, learned ASG appearing on behalf of the CBI at length. We have considered the submissions made on behalf of the respective parties. We have considered the material on record. D

13. The applicant is facing the trial for very serious offences punishable under Sections 120(B), 420, 379, 409, 468, 411, 427 and 447 of the Indian Penal Code, 1860, section 2 of the Indian Forest Act, 1927, Rule 21 read with Rules 4(1), 4(1)(A) and 23 of the Mines and Minerals (Development and Regulation) Act, 1957. The investigation was carried out by the CBI. Most of the witnesses are from Bellary in Karnataka and District of Ananthapuram and Cuddapah in Andhra Pradesh. Taking into consideration the apprehension on the part of the CBI that if the applicant is allowed to enter, stay and function in the Districts of Bellary in Karnataka and District of Ananthapuram and Cuddapah in Andhra Pradesh and that there are all possibilities of applicant influencing and/or tampering with the witnesses, this Court while granting bail imposed condition No.(e) restraining the applicant from entering into the Districts of Bellary in Karnataka and District of Ananthapuram and Cuddapah in Andhra Pradesh. In past, the apprehensions are proved to be true and even the judicial officers were influenced/tried to be influenced. There is a serious apprehension on the part of the CBI/investigating agency G

H

- A that if condition No.(c) is relaxed and/or modified and/or substituted, there would be threat to the witnesses because of the power and influence that the applicant is having. It is very unfortunate that even after a period of 11 years of filing the FIR and despite the observations made by this Court directing the trial to be expedited, the trial has not begun. From the material on record, it appears that the trial has not begun on the ground
- B that the accused/co-accused are filing the applications for discharge one after another, due to which the trial has not begun. In a case like this, it is always in the larger interest that the trial is concluded at the earliest. Early conclusion of the trial would enhance the faith of people in justice delivery system. The trial must come to its logical end at the earliest.
- C Any attempt on the part of the accused to delay the trial of serious offences is to be dealt with iron hands. More the delay, more the possibilities of influencing the witnesses. Therefore, we are of the opinion that as despite the observations made by this Court directing to expedite the trial, as the trial has not begun, now, a direction is to be issued to the trial Court to begin the trial on day to day basis and once the trial begins the applicant – accused may be restrained from entering into the Districts of Bellary in Karnataka and District of Ananthapuram and Cuddapah in Andhra Pradesh looking to the strong apprehension on the part of the CBI recorded hereinabove.
- E 14. In view of the above and for the reasons stated above, we dispose of/discard the present application for modification/substitution of condition No.(c) in the order dated 28.01.2015 passed by this Court in Special Leave Petition (Cri.) No. 7053/2013. However, we direct as under:
 - F (1) Learned trial Court /Special Court is hereby directed to conduct the trial on day to day basis from 09.11.2022. We direct the learned Special Court to conclude the trial within a period of six months from 09.11.2022 without fail;
 - G (2) That the prosecution may examine first, the witnesses from Bellary in Karnataka and District of Ananthapuram and Cuddapah in Andhra Pradesh as far as possible. It will be the duty of the investigating agency to keep all the witnesses present for the purpose of their depositions/examination in chief;
 - H (3) All the accused are hereby directed to cooperate the learned Special Court in conclusion of the trial at the earliest and

within the period stipulated hereinabove and any attempt on the part of the accused to delay the trial shall be viewed very seriously; A

(4) As it is reported that the daughter of the applicant has delivered a child recently and now she is at Bellary, the applicant is permitted to stay at Bellary upto 06.11.2022. It is specifically directed that the applicant shall move out of Bellary and remain out of Bellary in Karnataka and Districts of Ananthapuram and Cuddapah in Andhra Pradesh from 07.11.2022 till the trial is concluded. B

15. With the aforesaid directions, present application shall stand disposed of. Registry is directed to send the present order to the learned Special Court forthwith. C

Ankit Gyan
(Assisted by : Rahul Rathi, LCRA)

Application disposed of.