

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Criminal Petition No.6497 of 2015

Between :-

Tanniru Srinivasa Rao and others .. Petitioners

and

The State of A.P.,
Rep.by Public Prosecutor,
High Court at Hyderabad .. Respondents

DATE OF JUDGMENT PRONOUNCED: 12th August, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

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| 1. Whether Reporters of Local Newspapers
may be allowed to see the Judgment? | No |
| 2. Whether the copies of Judgment may be
marked to Law Reporters/Journals | No |
| 3. Whether His Lordship wish to see
the fair copy of the Judgment? | No |

HON'BLE SRI JUSTICE M.S.K.JAISWAL

Criminal Petition No.6497 of 2015

ORDER:-

This is a petition filed under Section 438 Cr.P.C., seeking

anticipatory bail to the petitioners who are shown as A.3, A.5, A.6, A.7, A.9, A.10, A.11, A.12 and A.15 in Cr.No.16 of 2015 of P.S.Narasaraopet Rural P.S., Guntur District, registered under Sections 147, 148, 307 and 302 read with 149 I.P.C.

2. The allegations in brief are that on 25-01-2015 at about 05.40p.m., the petitioners along with others formed themselves into an unlawful assembly and attacked the deceased A.Venkata Rao and his brother A.Vasanth Rao in the village due to political rivalry, wherein A.2-Srinivasa Rao stabbed the deceased and his brother with a knife and threatened the villagers when they tried to interfere in the dispute and left the place. Both the injured were shifted to hospital in an ambulance and on the way, A.Venkata Rao died and his brother Vasanth Rao admitted in the hospital with bleeding injuries. It is alleged that as the deceased A.Venkata Rao worked actively in MPTC elections held in 2014 on behalf of one political party, due to that A.1, who contested on behalf of another political party lost the election, and for that the accused party alleged to have attacked the deceased A.Venikata Rao and is brother A.Vasanth Rao. The wife of the deceased lodged the report before the police immediately after the incident against A.1 to A.6, A.13 to A.15 and five others and the police registered the case for the offences punishable under Sections 147, 148, 307 and 302 read with 149 I.P.C.

3. The contention of the petitioners/accused is that admittedly the prosecution party and the deceased and injured belong to rival political parties and there are political differences between them. Even though, the petitioners/accused were not at the spot, they are falsely implicated by the *de facto* complainant. It is further contended that originally the statements of the complainant and the alleged eye-witnesses were recorded, they did not attribute any specific overt acts to the petitioners/accused but only subsequently they made the improvements in their statements and made certain specific allegations against the petitioners/accused. It is further contended that

the non-petitioners/accused have already been arrested, remanded to judicial custody and released on bail. The police are frequently visiting the houses of the petitioners and threatening their family members that they would be arrested. Hence, the petition.

4. Learned Public Prosecutor opposed the petition and contended that it was a gruesome murder committed by the petitioners along with others in a broad day light due to political disputes and in the complaint which was lodged immediately after the incident, the names of the petitioners herein are specifically mentioned as being part of the unlawful assembly which committed the crime and that considering the gravity of the crime, it is not a fit case where anticipatory bail can be granted to the petitioners/accused.

5. The incident took place at about 05.40 p.m., on 25-01-2015. The wife of the deceased, who is said to be an eye-witness, has lodged the complaint at 08.00 p.m., on the same day. In the said complaint, it is specifically alleged that the petitioners herein along with others have surrounded the deceased and his brother Vasanta Rao and it is Avula Srinivasa Rao (A.2) who stabbed the deceased on chest and at the neck four times. It is also stated in the complaint that when the complainant intervened, she was pushed aside and her brother-in-law (Vasantha Rao) was also stabbed. When the other villagers by name Subba Rao, Srinivasa Rao, Peda Anjaiah and Venkateswarlu rushed to the spot, the accused also behaved high-handedly against them and proclaimed that they have stabbed two persons and if anybody interferes, they will also face the same consequences.

6. Learned Counsel appearing for the petitioners/accused submits that in the complaint which was lodged immediately after the incident, there is no specific allegation against the petitioners/accused but they are only said to be part of the 20 people who have participated in the crime and the specific allegation is only against A.2 who is said to have stabbed the deceased. Subsequently, during the course of investigation, when the statements of the complainant and the eye-

witnesses were recorded, they did not make any specific allegation against the petitioners/accused. The complainant filed W.P.No.9563 of 2015 on 04-04-2015 complaining that the police have not recorded their statements. Thereafter, the complainant and other eye-witnesses were re-examined by the Investigating Officer after a new Investigating Officer has taken up the investigation. This act of re-examining the material witnesses by the Investigating Officer was questioned by the petitioners/accused by filing W.P.No.17578 of 2015 and in the said Writ Petition interim orders are passed to the effect that the petitioners herein should not be arrested.

7. The fact remains that in the original complaint and the statements recorded at the inception even though the presence of the petitioners/accused amongst 20 persons who committed the crime is mentioned, there was no specific allegation but in the subsequently recorded statements certain specific overt acts are attributed to the petitioners/accused. However, in the complaint which was filed within two and half hours after the incident, the presence of the petitioners amongst the assailants is specifically mentioned.

8. It is no doubt true that the other accused in the crime have been released on bail after they were arrested and remanded to judicial custody. However, the present application is for grant of anticipatory bail to the petitioners/accused on the ground that their involvement is not *prima facie* borne out from the material on record.

9. Grant of anticipatory bail or a pre-arrest bail is an extraordinary power conferred on the Court which is required to exercise judicial discretion while considering granting or refusing the relief. One of the factors which should weigh in exercising the discretion is the nature and gravity of the accusation. In the instant case, the deceased and the accused belong to rival political parties. The petitioners are said to be the active workers of YSRC Party whereas the deceased and others are the sympathizers of T.D. Party. The motive for the alleged incident is the political grudges which came to the fore during the

elections. Victory of a candidate supported by the deceased and his followers as against the candidature of a candidate supported by the accused is said to be the cause. Considering the above, it cannot be said that the petitioners are entitled to the pre-arrest bail. The facts and circumstances of the case, the nature of the allegations and the motive for the incident is such that the relief cannot be granted. There are no merits in the petition and the same is liable to be dismissed.

10. In the result, the Criminal Petition is dismissed.

M.S.K.Jaiswal, J

August, 2015

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