

HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.9678 of 2015

ORDER:

This criminal petition is filed by the petitioner – accused No.18, under sections 437 and 439 Cr.P.C., seeking bail in Crime No.192 of 2014 of Unguturu Police Station, Krishna District, registered for the offences punishable under Sections 120-B, 201, 202, 302 read with Section 34 I.P.C. and Sections 25 and 27 of Indian Arms Act.

The learned counsel for the petitioner mainly contended that the petitioner has no role in the present crime and even though it is mentioned in the charge-sheet that on previous occasions he attempted to commit the said crime, but he has failed in his attempt.

The learned counsel for the petitioner also read over the relevant portion of the charge-sheet, which reads as follows :

“Thereafter A-18 arranged A-15 to A-19, A-5 brought them from New Delhi to Pinakadimi Village, during the month of July/August 2014 kept them in the house of A-30. But, their attempts also failed to do away the life of the deceased as the 2nd and 3rd deceased were not enlarged on bail.”

It is the further case of the petitioner that on the date of occurrence, the petitioner was not present at the place of occurrence.

The learned Public Prosecutor mainly contended that the petitioner is one of the main accused who planned to murder the deceased concerned.

Even though it is the case of the petitioner that he was not present at the place of occurrence, it is the case of conspiracy by which they went to commit the murder of the deceased concerned. Even though he failed in his attempt on an earlier occasion, it is an offence, which starts from the time of conspiracy. Mere failure of the petitioner at his earlier attempt will not exonerate the petitioner from the crime

concerned, as some of the co-accused were successfully committed the crime subsequently. Once the Prosecution invokes the provision under Section 120-B I.P.C., it covers the earlier period also. This Court is of the view that the petitioner is also to be prosecuted for the subsequent offence committed. Apart from that, the petitioner is having more than eleven cases and the petitioner is also native of New Delhi and he is also facing trial for some heinous offences.

Considering the said facts and circumstances of the case, this Court is not inclined to grant anticipatory bail to the petitioner – accused No.18.

Accordingly, the Criminal Petition is dismissed.

RAJA ELANGO, J.

02nd November, 2015

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