

HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.5997 of 2015

ORDER:

The petitioners-accused Nos.6 and 11, who are facing trial for the offences punishable under Sections 147, 148, 324, 326, 307, 341, 353, 201 r/w 149 and 120-B IPC and Sections 27(1) and 30 of Arms Act in S.C.No.57 of 2012 pending on the file of VII Additional Metropolitan Sessions Judge, Hyderabad, filed this petition under Section 437 & 439 of Cr.P.C., seeking bail.

The case of the prosecution is that the first petitioner-A.6 is the brother of A.1 and A.2 and that A.3, A.4(died), A.5, A.7, A.8 and A.13 are the sons of A.6. A.11 is the family friend and business partner of A.1 & A.6. There were land disputes between the family members of A.1 and Sri Akbaruddin Owaisi, M.L.A. representing Chandrayanagutta Constituency. While so, on 30.4.2011, the petitioners i.e. A.6 and A.11 along with other accused formed themselves into unlawful assembly, that at about 11.10 a.m., when the M.L.A. went out of their party office and sat in a gypsy vehicle, A.2 came on a motor bike and attacked the M.L.A. with butcher knife. A.1, A.4 and A.5 attacked and beat him with knives, caused injuries on his left arm, stomach and other parts of the body. A.3 with his licensed revolver fired at him and caused serious injuries in his stomach and abdomen and the assailants also caused injuries to the supporters of him and the other accused including the petitioners also involved in the crime.

Heard and perused the material available on record.

As seen from the record, earlier the petitioners herein and the other accused were granted bail by this Court and on appeals preferred by the State challenging the grant of bail, the Apex Court cancelled the bails and remanded the matter to this Court for fresh

consideration. This Court after re-considering the matter in Crl.P.Nos.5678, 7172 and 7899 of 2011 dismissed the request of the petitioners herein and A.1 for grant of bail and directed them to surrender before the jail authorities by order dated 25.4.2012. The petitioners surrendered as per the directions of this Court on 1.5.2012 and since then they are in prison. The Apex Court also dismissed the Special Leave Petitions filed against the said orders by order dated 05.10.2012. The subsequent petitions preferred by petitioners herein in Crl.P.Nos.4223 and 4062 of 2013 were also dismissed by this Court on 30.4.2013 and the said orders were confirmed by the Apex Court in Special Leave to Appeal (Crl) No.5720 of 2013 by order dated 22.7.2013.

The learned counsel appearing on behalf of the petitioners submitted that as far as the first petitioner-A.6 is concerned, he is suffering with heart problems and that serious blockades were found in his blood vessels and was shifted to the Intensive Care Unit and he is advised to undergo bypass surgery. Further the Superintendent of Prisons, Central Prison, Cherlapally has addressed a letter the Court below recommending immediate release of the first petitioner from prison as his health is very serious. In the medical certificate issued by the Jail Hospital dated 18.6.2015 the health problems being suffered by the first petitioner are described. Therefore, considering the health problems, it is prayed that the first petitioner be released on bail.

As far as the second petitioner-A.11 is concerned, it is submitted that he is aged about 62 years and that he is suffering from Hypertension, Diabetes Mellitus-Type II, coronary Artery Disease treated with post PTCA and stent, Mild left Ventricular Dysfunction, Right indirect in Inguinal hernia and lower back ache with left Sciatica and the medical certificate dated 18.6.2015 issued by the jail hospital describes the said ailments. It is prayed that since the diagnosis and

treatment of the health problems being faced by A.11 are insufficient, he may be enlarged on bail.

Be that as it may, as against the orders of this Court dated 25.4.2012 in refusing to grant bail, the petitioners herein and A.1 filed Crl.A.Nos.1595-1596 of 2012 (Special Leave to Appeal (Crl) Nos.4409-4410 of 2012) and the Apex Court dismissed the said appeals with the following observations:

“In the aforesaid view of the matter, we are satisfied that the main accused i.e., accused nos.1, 6 and 11 are clearly disentitled to the benefit of bail. Accordingly, Criminal Appeals arising out of Special Leave Petition (Crl.) Nos.4409-4410 of 2012 are hereby dismissed.”

Now, in the present petition, the petitioners seek bail on health grounds. To support the contention of the petitioners, they produced the letters of jail authorities wherein they recommended for the release of the petitioners for taking treatment. But as seen from the record, one of the co-accused-A.5 approached the Apex Court by way of Special Leave to Appeal (Crl.) No.2514 of 2015 for his release on the ground that he is in prison for a long time. The Apex Court vide order dated 18.9.2015 directed the matter to be listed after six months. In the said order the Apex Court observed as under:

“Accordingly, we direct the trial court to proceed further in the matter and frame the charges in the matter emerging out of charge sheet No.22/2011 dated 30.06.2011 on the next date of hearing (after a copy of this order is placed before it).

When the charges are framed, learned counsel for the respondent on instructions states, the prosecution will produce and complete its evidence within four months, subject to the co-operation of the accused. In view of the statement made by the learned counsel for the respondent, if any charges are framed, the trial court shall afford such opportunity to the prosecution, as would enable it to conclude the prosecution evidence, within four months from the date of framing of charges.

List after six months.”

In view of the said orders passed by the Apex Court, this Court is of the view that if the bail is granted to the petitioners at this stage,

there is every possibility of delay in the trial before the trial Court. Hence, this Court is not inclined to grant bail even on medical grounds.

The letters of jail authorities recommending medical treatment is applicable only to the convicted accused, but not the petitioners herein. However, it is always left open to the jail authorities that whenever they are of the view that the petitioners should be admitted in the hospital of their choice on the basis of the recommendations of the doctors of jail hospital, they can act accordingly.

With the above observations, the Criminal Petition is disposed of.

JUSTICE RAJA ELANGO

03rd November, 2015
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