

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 1666 OF 2015

ORDER:

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The petitioner, who is A-10 filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with Crime No.05 of 2015 of Nallapadu Police Station, Guntur District, registered for the offence punishable under Section 302 read with 34 IPC.

The case of prosecution is as under :

A-1 is alleged to have developed animosity with the deceased as the deceased was having illegal intimacy with his elder sister and despite several warnings the deceased did not give up the illegal intimacy. Then A-1 along with his friends i.e., A-2 to A-5 hatched a plan to do away the life of the deceased. In view of the said plan, the accused invited the deceased over phone on 03.01.2015 to attend a dinner party. Believing the version of the accused, the deceased went to the property. There the accused took him near to a water tanker situated in Jana Chaitanya Plots at Bonthapadu Panchayat area which is an isolated area and attacked the deceased with sharp edged weapons thereby causing death of the deceased. On coming to know about the incident, the informant who is the mother of the deceased along with her relatives rushed to the scene of offence and identified the body as that of her son and lodged a report. Basing on these allegations the above crime came to be registered.

Learned counsel for the petitioner submits that there is absolutely no material to connect the petitioner with the crime. According to him, the petitioner was not present at the scene of offence and as such he cannot be fastened with any liability.

Learned Public Prosecutor opposed the application contending that earlier the petitioner filed Crl.Petition No.695 of 2015 before this Court and after arguing the said matter for a period of time and when the court

expressed its opinion, he withdrew the same. In view of the above, he submits that the second application seeking anticipatory bail is not maintainable, when there are no changed circumstances.

It is true that earlier the petitioner herein filed CrI.P. No.695 of 2015 and the same was dismissed as withdrawn. The learned counsel for the petitioner submits that since A-9 was released on bail he filed the present application. It is to be noted that A-9 was granted regular bail by the Principal Sessions Judge, Guntur. In the absence of any changed circumstances insofar as the fact and law of the case are concerned, the second application for anticipatory bail cannot be considered. Even otherwise, a perusal of the Case Diary which is placed before this Court would show that A-10 along with his wife Sugunamma is alleged to have advised the accused to kill the deceased. On their instigation, the accused is alleged to have procured sickles and handed them over to other accused to kill the deceased. The said fact is confessed by A-8 who is none other than the son of the petitioner herein. In fact the deceased is also the cousin of A-8 and on many occasions he tried to assault the parents of A-8, who are the petitioner and one Sugunamma. The issue as to whether second application for anticipatory bail can be looked into when there are no changed circumstances is no more *res-integra* in view of the judgment of the Apex Court in ***State of Tamilnadu vs. S.A.Raja***^[1]. The Apex Court further held that though the principles of *res-judicata* are not applicable to bail applications, but repeated filing of the bail applications without there being any change of circumstances would lead to bad precedents.

Having regard to the allegations made and since the earlier application filed by the petitioner was dismissed as withdrawn after arguing the matter for some time, I am not inclined to consider the request of the petitioner. However, it is always open to the petitioner to surrender himself before the concerned court and move an application seeking regular bail after giving prior notice to the Public Prosecutor and in such an event the same shall be dealt with in accordance with law at the earliest possible time.

With the above direction, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

Dt:10.03.2015
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[\[1\]](#) 2005 (8) SCC 380