

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

[Special Original Jurisdiction]

TUESDAY THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND SIXTEEN

PRESENT

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

CRIMINAL PETITION NO.15992 OF 2016
CRIMINAL PETITION NO. 15983 OF 2016
CRIMINAL PETITION NO. 16313 OF 2016
AND
CRIMINAL PETITION NO.16166 OF 2016

Between:

Mohammed Abdul Samad @ Munna ... Petitioner/A-1

V/s.

The State of Andhra Pradesh
Represented by its Public Prosecutor [AP]
High Court of Judicature for the State
of Telangana & Andhra Pradesh,
Hyderabad. ... Respondent
Through the Station House Officer,
Madipadu Police Station, Ongole,
Prakasam district.

Counsel for the Petitioner : Sri Challa Ajay Kumar

Counsel for the Respondents : Public Prosecutor [AP]

The court made the following: [common order follows]

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

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COMMON ORDER :

These Criminal Petitions are filed by the petitioner/A-1 under section 437 and 439 of Cr.P.C., seeking to enlarge him on bail in S.C.No. 90 of 2010 in Crime No. 142 of 2008 of Maddipadu Police Station registered for the offence punishable under section 25 [2] [1] of Indian Arms Act; S.C.No. 595 of 2010 in Crime No. 356 of 2008 of Ongole Taluk Police Station registered for the offences punishable under section 120-B, 396, 400, 402, 412, 201 of IPC and section 25 [1] [A] of Indian Arms Act; S.C.No. 91 of 2010 in Crime No. 140 of 2008 of Maddipadu Police Station registered for the offences punishable under section 120-B, 395, 400, 402, 412, 414 and 201 of IPC and S.C.No. 73 of 2010 on the file of the Court of District and

Sessions Judge, Ongole, Prakasam district in Crime No. 150 of 2008 of Singarayakonda Police Station registered for the offences punishable under section 120-B, 396, 400, 402, 412, 414 and 201 of IPC.

2. The case against the petitioner/A-1 is that the petitioner/A-1 along with other accused conspired to commit highway robberies and in pursuance of the said conspiracy, the petitioner/A-1 in the month of July, 2008 took a room in Narayana Palace at Ongole on different dates with wrong addresses and on wrong names and A-1 was staying in the said room and used to keep in touch with other accused and they used to meet in the said room and hatch the plans to do away the crew of trailer plying on NH-5 with load of iron. Further the case against the petitioner/A-1 is that A-1 also took a go-down to conceal the looted material at Seetharampuram on a rent of Rs.40,000/- per month. On 31/7/2008, the

petitioner/A-1 to A-10 during odd hours followed the trailer bearing No.KA-08/B-4499 in front of NIMRA College with iron rod load in Verna and Indica cars and on motor bikes and entered in the cabin, caught hold of the cabin crew and strangled the driver and cleaner with rope till they died and dead bodies were packed in gunny bags and transported in Indica car to Inamanamelluru village and the iron load along with trailer was taken to go-down of the petitioner/A-1. Further the case of the petitioner/A-1 is that the dead bodies of the deceased were buried near by the side of Gundlakamma canal near Inamanamelluru village.

3. Sri Challa Ajay Kumar, learned counsel appearing on behalf of the petitioner/A-1 submits that the petitioner is innocent of the offences alleged against him and false cases are foisted due to rivalry with higher officials of Police Department. The entire investigation is over and charge sheet is

also filed on 06/04/2010. The case is committed to the Court of Session, Ongole, Prakasam district vide SC.No. 595 of 2010 and the same is pending trial.

4. Learned counsel has asserted that vide order dated 03/11/2009 in Criminal Petition No. 8905 of 2009, this Court directed the learned Sessions Judge, Prakasam district, to take steps and see that the case is committed to the Sessions Court and the trial is commenced as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of the order. However, the trial court failed to do so. Thereafter, the petitioner again presented bail application and the same was dismissed vide order dated 31/7/2013 and directed the trial court to conclude the trial in all cases within three months. For the second time also, the trial court failed to do so. Having left with no other option again the petitioner moved Criminal Petition Nos. 1838, 1839, 1840

and 1969 of 2016 before this Court and the same were disposed of vide order dated 09/03/2016 by directing the trial court to conclude the trial in all cases as expeditiously as possible preferably within six months from the date of receipt of copy of the order.

5. Learned counsel appearing on behalf of the petitioner submits that the petitioner is a victim of the circumstances as he is not liked by the higher officials of the Police Department, therefore, when he was granted bail, the prosecution approached to the Hon'ble Supreme Court, however, could not get any relief and the SLP [Crl] No. 10199 of 2010 filed by the State was dismissed vide order dated 15/4/2011.

6. Learned counsel for the petitioner submits that there are total 44 prosecution witnesses and despite directions of this Court only 37 witnesses are examined and still 7 witnesses are to be examined including the Investigation Officer. Thereafter,

the statement of the accused will be recorded under section 313

Cr.P.C. and defence counsel will also examine witnesses and it

will take time and the petitioner is in jail for the last 7 ½ years.

In view of the above, liberty of the petitioner is curtailed and

he is entitled for bail in all these criminal petitions.

7. On the other hand, learned Additional Public Prosecutor appearing on behalf of the respondent/state submits that there are total 18 cases registered against the petitioner. In 12 cases he was convicted, however, in three cases the prosecution had filed appeals against acquittal, which are pending consideration. He further submits that the petitioner was released on bail on 13/3/2010, thereafter he committed three crimes wherein two persons were guilty. Thereafter, for the second time, vide order dated 09/10/20120 again he was granted bail. Second time he committed three crimes. He submits that the petitioner is a habitual offender, if he is

released on bail he will certainly commit series of crimes and his liberty will tantamounts to nightmare and dangerous to the society at large.

8. Heard the learned counsel appearing on behalf of the petitioner and the learned Additional Public Prosecutor representing the State.

9. It is not in dispute that this Court three times directed the trial court to conclude trial but the fact remains that there are old cases of similar nature are pending trial before the trial court. Whereas the petitioner is facing trial atleast in seven cases including the present one. The trial court, time and again fixed the schedule of trial, however, due to work pressure the trial court may not have concluded. On instructions, the learned Additional Public Prosecutor submitted that the trial court has fixed the schedule for examining the witnesses in all cases.

10. No doubt, the trial court is bound to comply the directions passed by this Court. Some times High Court keeping in view the bail petitions filed again and again directs the trial court to conclude the trial as expeditiously as possible. But some time lose the sight that the trial court is also under work pressure but time and again give directions to the trial courts.

The petitioner is not only accused in the above sessions cases but there are seven other sessions cases still pending against him. This Court has already issued directions thrice and the trial court despite all its endeavour could not complete the trial.

The reasons are obvious. Firstly, there are many cases against petitioner alone; secondly, older cases are on high side.

Therefore, this is not proper to mount pressure on the trial court to conclude over and above the older cases. However, since the speedy trial is right of the petitioner, let trial be concluded as expeditiously as possible.

11. In view of the above facts and circumstances, I hereby find no merit in these criminal petitions to grant bail to the petitioner/A-1.

12. The Criminal Petitions are accordingly dismissed.

13. As a sequel, miscellaneous petitions if any, pending in this Criminal Petition shall stand disposed of.



JUSTICE SURESH KUMAR KAIT.

06/12/2016
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HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

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(DISMISSED : COMMON ORDER)

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