

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

-
-
CRIMINAL PETITION No.6663 of 2016

ORDER:

This petition is filed under Section 438 of Code of Criminal Procedure, to direct the concerned police i.e., SHO Etcherla to release the petitioner on bail in the event of his arrest by granting pre-arrest bail in connection with Crime No.23 of 2016 on the file of Etcherla Police Station, Srikakulam District.

The case of the prosecution is that on 28.02.2016 there was a quarrel between the petitioner and the informant with regard to property and that during the course of quarrel A.1 alleged to have bet the informant with knife on his head, while A.2 and A.3 bet on his back with stick causing bleeding injuries to the victim. Basing on those allegations the present case came to be registered.

Grant of pre-arrest bail is not a matter of course, it is a matter of exception. Unless the petitioner show prima facie material to exculpate him in the said offence it is difficult for the Court to grant bail under Section 438 of Cr.P.C. The Hon'ble Apex Court laid down certain guidelines for grant of anticipatory bail in

Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others^[1], held as follows:

"The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

- i) *The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- ii) *The antecedents of the applicant including the facts as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- iii) *The possibility of the applicant to flee from justice;*
- iv) *The possibility of the accuser's likelihood to repeat similar or the other offences;*
- v) *Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;*
- vi) *Impact of grant of anticipatory bail particularly in case of large magnitude affecting a very large number of people;*
- vii) *The Courts must evaluate the entire available material against the accused very carefully. The Court must also clearly comprehend the exact role of the accused in the case. The case in which accused is implicated with the help of Section 34 and 149 of IPC, the Court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- viii) *While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*
- ix) *The Court to consider reasonable apprehension of tampering of the witnesses or apprehension of threat to the complainant;*
- (x) *Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."*

Learned counsel for the petitioner contended that the victim received only minor injuries which at best would attract Section 324 of IPC or Section 326 of IPC and would not attract Section 307 of IPC.

Learned Public Prosecutor opposed the bail application on the ground that earlier the petitioner filed similar application in CrI.P.No.4549 of 2016 which was dismissed by order dated 13.04.2016 on the ground that the wound certificate was not produced before the Court to show sustaining of injuries on the head of the victim.

Now, the learned Public Prosecutor produced wound certificate which discloses seven injuries on the head which would have been caused with a knife. The doctor opined that the injuries are simple in nature and appears to have caused by a blunt force. However, those injuries were caused on vital part i.e., head. Therefore, based on seat of injury, the Court can infer *prima-facie*, that the petitioner had an intention

The only apprehension of the petitioner is that in the event of his arrest, he will be put to inconvenience. But that is not a sufficient ground to grant pre-arrest bail.

Accordingly, the Criminal Petition is dismissed. However, the petitioner is at liberty to surrender before the concerned Court and move bail application issuing prior notice to public prosecutor and on such filing of application the Court concerned is requested to decide the bail application on the same day itself, according to law.

5th May, 2016.
Rds/Pn

— — — — —

-
-
-
-

CRIMINAL PETITION No.6663 of 2016

DATED : 05.05.2016

Rds/Pn

[\[1\]](#) 2011 Cr.L.J. 3905