

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.1958 of 2016

ORDER:

-

The petitioners, who are A1 to A5, filed the present application under Sections 437 and 439 of the Code of the Criminal Procedure (Cr.P.C.), seeking enlargement on bail in PRC No.7 of 2016 on the file I Additional Judicial Magistrate of First Class, Jagtial which arose out Crime No.158 of 2015 of Jagtial Rural Police Station, Karimnagar, registered for the offences punishable under Sections 143, 147, 148, 120-b, 115, 308, 427, 302 read with Section 149 of IPC.

The investigation done by the police which route to filing of charge sheet would show the allegations as under:

On 27.10.2015, A8 informed A1 through phone that the deceased would approach her at Diamond hotel in Koratla on 28.10.2015 and accordingly all the accused decided to kill the deceased at that time. On 28.10.2015 at about 10.30 a.m., the deceased went to his Auto consultancy shop in Ertiga car bearing No.AP-15/BF-1863 owned by LW15 and thereafter he along with LW5 went to Koratla to meet A8. Accordingly, the accused took four knives purchased earlier by A1 to kill the deceased. A1 and A10 left in a car driven by A7, while A2 to A6 left in another car driven by A6. On the way, A10 got down the car on some urgent work. On the other hand, deceased dropped LW5 at Sai Baba Temple and went to Diamond hotel, met A8 and the same was witnessed by LW16. Later, A1 to A6 followed the deceased to Metpalli. Thereafter, deceased returned back to Koratla, dropped A8, picked up LW5 and while returning back to Jagtial in the same car, at about 03.30 p.m, when the deceased crossed Chelgal bus-stop, A1 overtook Ertiga car of deceased, put across the car making the deceased stop the car. Immediately, A2 to A6 hit the vehicle of the deceased from behind, A2 to A5 initially went towards LW5 presuming him to be the deceased, but, subsequently, when A1 showed the deceased, A2 to A5 pulled out the deceased from driving seat and A2 to A4 hacked on his

chin and throat with knives while A6 stabbed on his chest, causing instant death of the deceased. Basing on these allegations, a charge sheet came to be filed.

Learned counsel for the petitioners mainly submits that even accepting the allegations in the charge sheet to be true, no offence is made out against the petitioners. It is his case that in the identification parade alleged to have been conducted, the petitioners herein were not identified by the eye witnesses. Relying upon the judgment of this Court in ***Sanjay Chandra and others Vs. Central Bureau of Investigation***^[1], the learned counsel contends that the petitioners cannot be lodged in jail for ever. Having regard to the fact that no specific overt act is attributed to A5 with regard to attack on the deceased, he submits that the request of A5 may be considered. On the other hand, learned public prosecutor opposed the application.

One cannot dispute the guidelines laid down by the Apex Court in Sanjay Chandra's case with regard to the factors to be taken into consideration while considering the bail application of the accused. But at the same time, it is to be noted that the petitioners herein earlier approached this Court by filing an application for bail vide CrI.P.No.14335 of 2015 which was rejected against A1 to A5 on 10.02.2016, holding as under:

“As per the material on record, the first petitioner/A1 is behind the back of entire incident as he engaged the other accused to cause the murder of the deceased and A2 to A5 had previous antecedents. Considering the same, even though the investigation is completed and the charge is filed, this Court is not inclined to grant bail to A1 to A5 and the criminal petition is dismissed against them. As far as petitioners 6 to 14/A6 to A9 and A11 to A15 are concerned, since they are in judicial custody since 90 days and as it is submitted that they are ready to cooperate with the investigation and also to appear before the Court regularly, this Court is inclined to grant bail to them.”

Within five days thereafter, the present application came to be filed seeking bail for the very same petitioners i.e., A1 to A5.

Learned Senior Counsel Sri Vinod Kumar Deshpande appearing on behalf of the petitioners contends that facts which go to the route of the

matter are not brought to the notice of the Court by the counsel appearing for the petitioners then and if the same are taken into consideration, the petitioners would be released on bail. He further submits that since investigation is over and charge sheet is also filed, their request can be considered.

In view of the representation made that many issues were not considered even by the trial Court while rejecting their request, the petitioners are always at liberty to move the trial Court, in which event the same shall be dealt with, in accordance with law.

Accordingly, the criminal petition is disposed of.

JUSTICE C. PRAVEEN KUMAR

25.02.2016
vhb

[\[1\]](#) 2012 (1) ALD (Crl.) 599 (SC)