

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.1307 of 2016

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CRIMINAL PETITION No.1500 of 2016

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COMMON ORDER :

Criminal Petition No.1500 of 2016 is filed on behalf of the petitioners/A-6, A-9, A-10 and A-13, whereas Criminal Petition No.1307 of 2016 is filed on behalf of the petitioner/A-7, under Section 438 Cr.P.C. seeking release in the event of their arrest in connection with Crime No.122 of 2015 of Duggirala Police Station, Guntur District, registered for the offences punishable under Sections 302, 337, 506 read with 34 IPC.

The averments in the First Information Report show that the informant was eking out his livelihood by working as a cook at marriages and other functions in Tenali and Guntur areas. He got acquaintance with the deceased-Vemuri Satyanarayana @ Satyam. About three years back the deceased established a Mess in the name of Chandana Mess in Tenali market centre and in that Mess the informant worked as Cashier for six months. Later the said Mess was closed and the deceased established another Hotel in Yousufguda, Hyderabad opposite Ganapathi complex. Since he sustained loss closed the same and was looking after a Gas business in Tenali. One Subrahmanyam, younger brother of the deceased, was also residing at

Puttarao Rice Mill, Tenali. Both the brothers have disputes with one Laddu who belongs to Ithanagar, Tenali. On 22.11.2015 at about 9.15 a.m., while the deceased along with the informant was returning from Kanthamraju Konduru on a Honda Activa, one Auto came in opposite direction and dashed against their vehicle. As a result of which the informant and deceased fell down. Then four persons armed with hunting sickles got down from the Auto and attacked the deceased. While the informant was trying to get up, one Samudrala Pavan Kumar @ Laddu threatened him with knife stating that if he gets up he will cut him. Thereafter all the four persons left towards Kanthamraju Konduru in an Auto after confirming the death of the deceased. The informant noted down the Auto number and later lodged the present report.

The learned counsel for the petitioners submits that even accepting the allegations made in the report to be true no offence is made out against the petitioners. According to him the remand report is silent as to the presence and participation of the accused. Insofar as A-7 is concerned it is stated that he is a Student and studying final year M.P.Ed. in Acharya Nagarjuna University and that he has been falsely implicated merely because of involvement of his brother in the incident.

The learned Public Prosecutor strenuously opposed the application contending that though the names of the petitioners are not mentioned in the First Information Report

but during the course of investigation the complicity of these petitioners in the crime has been established.

It is well established principle of law that F.I.R. is not an encyclopedia which should contain all the details. The First Information Report which has been given by the informant refers to the participation of four persons, out of whom it refers to the name of one Samudrala Pavan Kumar @ Laddu. The statements of L.Ws.6, 15 and 16 which are recorded by the police during the course of investigation indicate role of the petitioners. These witnesses were examined on the next day of the incident. L.W.15-Musunuru Naga Basaveswara Rao in his 161 Cr.P.C., statement stated that he works as an Insurance Agent and collecting premiums by roaming in the entire Tenali town. While he was collecting the premiums at Ithanagar, he heard that A-1, A-6, A-8, A-9, A-10, A-13 along with others conspired in the house of A-7 by arranging a meeting in order to murder either L.W.4 or the deceased. As L.W.4 and the deceased are well known to L.W.15, he informed the same to L.W.4 and alerted him. Later L.W.4 left Tenali and went to Vijayawada and started to live there. Consequently, the deceased also went to Hyderabad and started new business. His statement further discloses that about 5 to 6 months back A-9, A-10, A-13 and other accused hatched a plan to kill L.W.4, but on seeing the police party they returned. It is said that on the date of incident A-1, deputed Lakshmaiah (A-6), Kiran (A-9), Nagaraju (A-10) and some

others to know the movements of L.W.4 or the deceased. As per their plan, they observed the deceased returning with someone from Kanthamraju Konduru Mahankali temple and after receiving the information about the deceased proceeding with an unknown person, A-1 with the help of A-2 to A-5 attacked him. Similarly the statement of L.W.16 i.e., Desu Nageswara Rao discloses that in the house of Balayya, A-6, A-9, A-10, and A-13 gathered together and hatched a plan to kill the deceased. The statement also discloses that Subrahmanyam, who is the deceased herein, while staying at Vijayawada, used to attend the Courts at Tenali. About 5 or 6 months back Kiran, Nagaraju, Sundeep K and Venu in pursuance of the plan to kill the deceased laid a wait at the Court. But, however, since there was heavy bandobasth they could not execute their plan. It is said that after 15 days, they attended the court in order to kill the deceased. Similar is the statement of one Khaja Baig, who refers to the role played by the petitioners. Apart from this, confession of A-1 refers to the active participation by A-7 along with others in hatching a conspiracy and informing the movements of the deceased thereby facilitating A-1 to A-5 in attacking the deceased.

In **State of Uttar Pradesh v. Madhumani Tripathi**^[1] while referring to the case in Prahlad Singh Bhati v. NCT, Delhi, the Apex Court reiterated that if a person was suspected of the crime of an offence punishable with death or imprisonment for life then there must exist grounds which specifically negate the existence of reasonable ground for believing that such an accused is guilty of an offence punishable with the sentence of death or imprisonment for life. The jurisdiction to grant bail must be exercised on the basis of well settled

principles having regard to the circumstances of each case. While granting bail, the Court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused and reasonable apprehension of witnesses being tampered with.

In view of the judgment referred to above and having regard to the nature of the allegations made against the petitioners and taking into consideration the fact that the offence is grave and serious in nature, which is punishable with death, I am not inclined to grant anticipatory bail.

Accordingly, both the criminal petitions are dismissed.

JUSTICE C. PRAVEEN KUMAR

Dt:25.02.2016

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^[1] AIR 2005 SC 3490