

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CRIMINAL PETITION No.15890 OF 2016

ORDER:

Vide the present petition, the petitioner/A.3 seeks a direction thereby to release him on bail pending trial in SC No.97 of 2016 on the file of V Additional Metropolitan Sessions Judge-cum-Mahila Court, Vijayawada, Krishna District, in connection with Crime No.56 of 2010 of S.N. Puram Police Station, registered for the offences punishable under Sections 302, 307, 364, 201, 427, 479, 120b read with 34 of IPC.

Heard the learned counsel appearing on behalf of the petitioner/A.3 and the learned Public Prosecutor appearing on behalf of the respondent-State.

Learned counsel appearing on behalf of the petitioner has mainly argued that the petitioner/A.3 has moved at least 16 to 17 applications for the same relief and went up to the Supreme Court, however, all the petitions rejected by this court and by the Supreme Court as well. But, this Court directed the trial Court to expedite the trial. However, till date, the trial has not been concluded.

Learned counsel for the petitioner has admitted that there are 80 prosecution witnesses. All were examined and the statements under Section 313 Cr.P.C. were also recorded. Thereafter, the petitioner moved application under Section 311 Cr.P.C for recalling of the witnesses. The said application has been allowed by this court. Moreover, the petitioner/A.3 has filed a list of defence witnesses, whereby the petitioner wants to examine ten

defence witnesses. He submits that the trial will take time and the petitioner is in judicial custody since 08.02.2010.

The brief facts of the case are that the petitioner herein is A.3. One Palagani Venkateswaramma is his elder sister. The said Venkateswaramma and A.3 are the children of sister of Palagani Prabhakara Rao. Venkateswaramma was given in marriage with Palagani Prabhakara Rao of Adyodyanagar, S.N.Puram, Vijayawada. The children of Venkateswaramma are meeting with unfortunate deaths within one year of their births, as the said Venkateswaramma is the daughter of sister of Prabhakara Rao (Menarikam). Due to which, Palagani Prabhakara Rao married LW.11 Narmada Devi as second wife. Thus Venkateswaramma is first wife and LW.11 is second wife of Palagani Prabhakara Rao. Said Prabhakara Rao had real estate business besides wine shops, Bar and Restaurants. D.2 is the daughter and LW.2 is son of LW.11 and Prabhakara Rao. Since the birth of D.2, business of Prabhakara Rao developed and got name and fame, hence he had very much love and affection towards D.2. As Prabhakara Rao is showing affection and love towards children of LW.11, the first wife and her family members, however, especially A.3 are disputing with LW.11. In that connection there are property and family disputes between Palagani Prabhakara Rao and A.3.

In the year 1992, one day A.3 came to the house of LW.11 situated at Kedareshwarapet, threatened and warned to leave Prabhakara Rao. On that, LW.11 refused and informed A.3 to ask his uncle. On that A.3 grow wild and forcibly poured Rat poison in her mouth and went away. In the year 1995 one day while LW.11

was returning to home from exhibition ground in a car, A.3 stopped the car and threatened her on the point of knife, warned that if she did not leave his uncle Prabhakar Rao, he would kill her and her children. The car driver LW.44 rescued LW.11 from A.3. Later LW.11 informed the same to her husband Prabhakar Rao, who in turn went to office of A.3's Advocate Manmadha Rao and called A.3 from the office and slapped A.3 on his cheek and warned him. Thus A.3 developed grouse against LW.11 on the plea that due to LW.11 and D.2 only Prabhakara Rao neglected his sister Venakteswaramma. Hence, A.3 decided to do away the life of D.2 so that the marital life of his sister will be happy.

Accordingly, the petitioner/A.3 hatched a plan and decided to do away the life of D.2. A.3 told the disputes to A.1 and asked him to kidnap and murder of D.2, for which, A.3 offered Rs.50 lakhs on 06.01.2010. A.1 engaged A.2. Thus, A.1 to A.3 made criminal conspiracy to kidnap and murder D.2. Both A.1 and A.2 decided to kidnap and murder of D.2 in view of the conspiracy by A.1 and A.3. As per their plan and conspiracy, both conducted recky about the movements of D.2 from her house on 19.01.2010. A.1 purchased Double Sim card cell phone from LW.26. Again on 07.01.2010 purchased one cell phone Micro Max GC-255, double sim card from his shop. On 06.01.2010 at 1.00 p.m., A.1 and A.3 came to Ranga Tea stall of LW.45 and had tea. A.1 introduced A.3 to LW.45. LW.45 stated A.1 and A.3 also came on 12.01.2010 at about 6.00 p.m. and had tea, and discussed something, and went away. On 02.02.2010, LW.45 learnt that A.1 and A.2 murdered D.1 and D.2.

Thereafter, A.1 and A.2 committed theft of Motor cycle AP-16-BC-9039 on 13.01.2010 in between 7.30 PM to 8.30 PM belongs to LW.46 parked at Charmas Cloth shop, Labbipet, Vijayawada. LW.47 stated that AP-16-BG-4375 was parked in RTC Bus Stand, Guntur from 14.01.2010 to 17.01.2010. On receipt of advance amount of Rs.1,00,000/- from A.3 to A.1 on 12.01.2010 for the commission of offence. On 14.01.2010 A.1 paid Rs.30,000/- as chit amount to LW.38 and came to know that the amount was paid to him was received from A.3 to A.1. On 14.01.2010 A.2 got stickered the number plates with fake number as AP-16-BG-4375 to the original number AP-16-BC-9039 by LW.48, got stitched seat cover and tank cover to AP-16-BG-4375 through LW.49 and got attended full stickering work to AP-16-BG 4375 through LW.50. On 16.01.2010, A.1 paid Rs.29,500/- as pending dues to LW.9 and Rs.19,000/- to LW.40, and Rs.8,000/- to LW.41 and Rs.3,500/- to LW.42 and Rs.10,000/- to LW.43 and they came to know that the amount was paid to him was received from A.3 to A.1 for kidnap and murder of D.2.

It is an admitted fact that all the prosecution witnesses have been examined and 313 Cr.P.C. statements were recorded and of moving application under Section 311 Cr.P.C., which has been allowed for recalling the witnesses and further he has to examine the defence witnesses around ten, therefore it will take time.

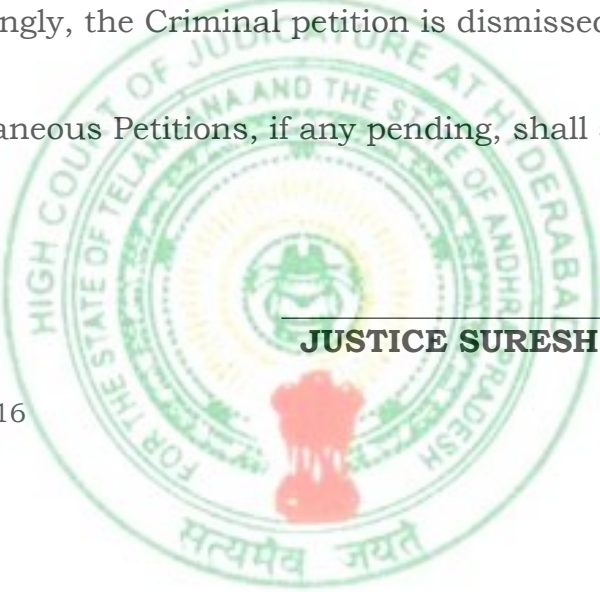
There is no settled law that if a heinous crime committed by the criminal, he has to be released on bail if trial is taking time. Such a person is threat to the society, and the trial Court is taking all pain to conclude trial fixing the date on day to day basis.

As stated by the learned Public Prosecutor, in cross examining 78 prosecution witnesses, the petitioner had taken eleven (11) months time. Thus, the petitioner is taking his own time, however, the trial Court is not at fault. The petitioner had moved application under Section 311 Cr.P.C., and had given a list of ten defence witnesses, will certainly take some time.

Therefore, without commenting on the role of the petitioner/A.3, I am of the view that the trial is at the fag end, and at this stage, I am not inclined to grant bail.

Accordingly, the Criminal petition is dismissed.

Miscellaneous Petitions, if any pending, shall stand closed.



JUSTICE SURESH KUMAR KAIT.

Date : 21-11-2016

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