

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CRL.P.NO.15207 OF 2016

O R D E R

Vide the present petition, petitioner seeks direction thereby directing the Station House Officer, Visakhapatnam II Town Police Station, Visakhapatnam to release him on bail in the event of his arrest in connection with Crime No.280 of 2016, registered for the offences punishable under Sections 302, 341, 120B read with 34 IPC and Section 27 of the Arms Act, 1959.

The case of the prosecution is that on 14.9.2016 one Thota Padmavathi, filed report stating that her husband is doing waste oil business in Visakhapatnam and Srikakulam Districts. He is having a business rivalry with the petitioner. She alleged that the petitioner along with A-7 and A-8 previously tried to kill the deceased ten months ago. She alleged that a case was registered at Ranastharam Police Station and the case is now coming up for hearing. It is further alleged that the petitioner threatened the deceased to compromise the case. However, the deceased refused to do so. She further alleged that on 14.9.2016 between 9-00 and 9-30 p.m., the petitioner employed paid rowdies and murdered the husband near Daba Gardens, Sai Baba Street.

The learned counsel for the petitioner submits that during the course of investigation, the police apprehended A-2 to A-8 and recorded their confessions. As per the confessions of the co-accused, the police recovered cash, cell phones, motor cycles and a knife from the possession of the accused. The police also recovered a fire arm from the seashore that was used in the commission of the offence. He further submits that as per the contents of the FIR, the petitioner only got the deceased killed through other accused and did not participate in the commission of the offence. From the confession statement of the co-accused it is clear that the petitioner did not participate in the commission and moreover, the only allegation against the accused is that he contracted other accused to kill the deceased.

He further stated that apart from confession of the co-accused, there is no independent evidence to show that the petitioner contracted the other accused or that he offered supari to kill the deceased. The present case is registered based on mere suspension and there was also prior rivalry between the petitioner and the accused. In the FIR there is no allegation that the petitioner contacted the other accused to kill the deceased or that he offered any Supari. With these averments, he sought to release the petitioner on bail.

On the other hand, the learned the learned Additional Public Prosecutor appearing for the State submitted that the petitioner/A-1 is the main accused, who knowing that the deceased had hatched a plan to eliminate him, hired other accused and paid advance amount and accordingly the deceased was killed. He stated that the petitioner and the co-accused A-2 and A-3 are facing trial in FIR No.186/2015 under Section 307 read with 34 IPC. Thus the petitioner is a habitual offender.

He further stated that the charge sheet is yet to be filed. If the petitioner is released on bail, he may tamper with the evidence and influence the witnesses.

Keeping in view the seriousness of the allegations against the petitioner and that the case is registered for the offences punishable under Sections 302, 341, 120B read with 34 IPC and Section 27 of the Arms Act, 1959, I am not inclined to grant bail to the petitioner.

The petition is accordingly dismissed.

AVS

01—11—2016