

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 10870 of 2016

ORDER :

The petitioner, who is A-17 in Crime No.192 of 2014 of Unguturu Police Station, Vijayawada City, filed the present application under Sections 437 & 439 Cr.P.C. seeking enlargement on bail in the above crime registered against him and 42 others for the offences punishable under Sections 120-B, 201, 202, 302 read with 34 IPC and Sections 25 and 27 of the Indian Arms Act.

The case of the prosecution is as under :

All the accused except A-7 to A-19 are inter-related and residents of Pinakadimi village, Pedavegi Mandal of West Godavari District. A-7 to A-19 are the residents of Kalyanapuri, New Delhi and are habitual offenders of property and body offences. They are Rowdy sheeters and hired killers of various police stations.

One Gandham @ Gandhodi Nageswara Rao resident of Pinakadami village of Pedavegi Mandal, West Godavari District is the first deceased, whereas Gandham @ Gandhodi Marraiah of same village is the second deceased. Gandham @ Gandhodi Pagidi Marraiah is the third deceased in this case. D-1 is the father of D-2 and D-3 while L.W.42 is the wife of the first deceased and mother of D-2 and D-3. L.W.45 is the wife of the third deceased. One Turapati Naga Raju is the son-in-law of 1st deceased while Turapati Siva Krishna is the son of Turapati Naga Raju and grandson of 1st deceased. One late Bhuttam Durga Rao who is the brother of A-1 and A-2 is the deceased in Crime No.83 of 2014 of Pedavegi Police Station of West Godavari District registered for the offence punishable under Section 120-B and 302 read with 34 IPC. D-2 and D-3 are A-8 and A-9 in the above case. One Turapati Uma Devi, who is the daughter of A-2 fell in love with one T.Siva Krishna, who is A-4 in Crime No.83 of 2014. When the parents of Bhuttam Uma Devi i.e., A-2 was not interested to celebrate her marriage

with Siva Krishna, Bhuttam Durga Rao who is the brother of A-2 celebrated the marriage of Bhuttam Uma Devi against the wishes of her parents. Since then disputes arose between the two families.

During the panchayat elections of Pedavegi village, the deceased and Turapati Naga Raju supported Pamarthi Venkateswara Rao whereas A-1 and A-2 supported Pamarthi Ganga Raju to the post of Sarpanch of the village. However, there was a compromise and at the time of withdrawal, the candidate supported by A-1 and A-2 promised to pay Rs.3 lakhs to the candidate supported by the deceased but failed to keep up his promise. While things stood thus, Turapati Siva Krishna who is the grand son of D-1 subjected the daughter of A-2 to physical and mental cruelty which lead to registration of Crime No.42 of 2009 for the offences punishable under Sections 498-A and 307 read with 34 IPC. Similarly, a case in Crime No.151 of 2013 of Pedavegi Police Station came to be registered for an offence punishable under Section 324 read with 34 IPC on the basis of a report given by Durga Rao. On 06.04.2014 D-2, D-3, Turapati Naga Raju and his sons Siva Krishna and Chiranjivi conspired with the hired killers from Mumbai and caused the death of Bhuttam Durga Rao who is the brother of A-1 and A-2. After the murder of Bhuttam Durga Rao the family members and their close associates who are A-1 to A-6 and A-20 to A-44 developed grouse against the deceased. Accordingly at the time of obsequies of Bhuttam Durga Rao, they are alleged to have convened a meeting at the burial ground and conspired to do away with the life of the deceased. A-5 with the active support and instigation of A-1 to A-6 and A-20 to A-44 approached A-12 to A-17 through A-18 at Delhi and pursuant thereto hired them. Subsequently, as per the plan the hired killers came down to Hyderabad and were provided with arms. On 26.08.2014 D-2 and D-3 were granted bail by the Sessions Court, Eluru in connection with Crime No.83 of 2014 of Pedavegi Police Station. Thereafter the accused planned to do away the life of the deceased while they were returning to their village from Jail. But apprehending danger to their lives, the deceased stayed at Athidi lodge at Eluru.

On 23.09.2014 A-1, A-3 to A-6, A-20 to A-44 along with A-8 to A-11 after due deliberations with A-2 through phone and other electronic device hatched a plan to do away with the life of the deceased while he proceeds from Gannavaram Air Port to Eluru. In pursuance of their pre arranged plan and in continuation of their pre-existing conspiracy to murder the deceased, on 23.09.2014 A-24 and A-27 purchased a used pulsar motorbike with registration No.A.P.27-AS-3400 from L.W.11-Manikanta Finance Auto Mobile Agency at Eluru.

In pursuance of the plan, on 23.09.2014 A-7 to A-11 along with A-5, A-6 and A-21 to A-23 went to Gannavaram Air Port from Hanumanjunction and Eluru, on an assumption that the 2nd and 3rd deceased would be coming from Mumbai to Vijayawada in the evening flight. But their attempts got failed as D-2 and D-3 never came to Vijayawada on that day. Again on 24.09.2014 A-21 to A-23 came to Gannavaram Air Port in a Car along with other hired assassins and laid a watch at the Gannavaram Air Port parking area as per their plan. The first deceased went to I Town Police Station, Eluru, got influenced the then Inspector of Police and took L.Ws.2 and 3 who are the police constables, to accompany him to Gannavaram Air Port and from there to Eluru Court. The Inspector of Police is alleged to have provided two constables to the 1st deceased as escort, un-authorizedly, without maintaining any records and without any authority. Thereafter D-1 hired Tavera Car bearing No.A.P.2-Y-0500 from L.W.41 from SVS Travels driven by L.W.1. First deceased and L.Ws.1 to 3 came to Gannavaram Air Port on 24.09.2014 at about 9.45 a.m., to receive the second and third deceased. At about 9.45 a.m., the second and third deceased came from Mumbai and they sat in the middle seat of the Car where as L.Ws.2 and 3 Police Constables who were in civil dress sat in front seat by the side of the driver. A-21 to A-23 who were waiting in the car along with A-7 and A-9 showed the deceased to them and their place of seating in the car. Thereafter, when the car of the deceased car moved from Air Port, it was followed and chased in a Mahindra XUV car driven by A-11 along with A-6, A-8 and A-10, whereas

A-7 and A-9 were following in a Pulsar motorbike. When the deceased crossed Gannavaram centre and reached Vege Tataiah Gardens of Peda Avutapalli village, A-11 drove the car in a high speed, overtook it and stopped the car in front of the car of the deceased, resulting in L.W.1 the driver of the car of the deceased was forced to stop the car. Meanwhile A-7 and A-9 also reached the spot. Immediately A-6, A-8 and A-10 got down from the car, while A-11 sat in the driver seat with country made pistol with a view to open fire in case his counter parts fail to execute plan and also help them to flee away from the scene of offence after executing the plan. It is alleged that A-10 fired from his pistol on 3rd deceased from the right side of the car. A-6 broke open the glasses of the car of the deceased with iron rod. A-7, A-8 and A-9 opened fire with pistol on the deceased indiscriminately from the left side of the car, pointing the deceased, resulting in instantaneous death of all the deceased. After the incident A-6 to A-11 fled away from the spot. L.Ws.1 to 3 got frightened about the incident, came down to Gannavaram centre, by boarding APSRTC bus bearing No.A.P.28-Z-5237 driven by L.W.19 in which L.W.20 was the Conductor. L.W.2 Police Constable of Eluru I Town Police Station made a call to mobile of L.W.22-P.Siva, Inspector-Writer of the I Town P.S., Eluru bearing No.9966612123 from one rupee coin box of L.W.21 bearing No.08676-252164. L.W.22 in turn gave phone to Ch.Murali Krishna, the then Inspector of Police, I Town P.S., Eluru. Immediately Sri Ch.Murali Krishna the then Inspector of Police asked L.W.2 to come over his P.S., without informing either to police or anybody as their presence was not lawful. Basing on these allegations, the above case came to be registered.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor appearing for the respondent-State.

Learned counsel for the petitioner mainly submits that though the earlier application filed by the petitioner came to be dismissed, subsequently the case has been numbered as P.R.C. No.6 of 2016 and in view of the change in circumstances, seeks bail. Apart from that the

learned counsel for the petitioner mainly submits that the material available on record does not anywhere indicate active participation by the petitioner in the commission of the offence. Since most of the accused are released on bail by this Court he submits that the rejection of the bail application of the petitioner by this Court is improper and incorrect.

The same is opposed by the learned Additional Public Prosecutor contending that having regard to the nature of the allegations made and since the averments in the charge-sheet clearly disclose involvement of the petitioner in the commission of the offence more particularly his unsuccessful attempts made twice, does not deserve any relief from this Court.

As seen from the record, the charge-sheet in the present crime came to be filed in the month of September, 2015. As stated earlier, the averments in the charge-sheet disclose that after the murder of one Bhuttam Durga Rao, his family friends and close associates who are A-1 to A-6 and A-20 to A-49 developed deep grouse against the deceased family for murdering their relative Bhuttam Durga Rao. As such they conducted a meeting near the burial ground at the time of the obsequies and conspired together to do away with the life of the deceased. Pursuant thereto A-5 went to Kalyanpuri, New Delhi during the month of May 2014, approached A-12 in pursuance of the pre-existing conspiracy for eliminating the deceased in this case. A-12 joined A-14, A-17 and A-5, gave money to A-17 i.e., the petitioner herein to purchase two fire arms worth Rs.40,000/- each. In addition to that A-5 paid Rs.20,000/- and Rs.5,000/- to A-14 and A-17. In the month of May 2014 when A-12, A-14 and A-17 reached Eluru from New Delhi, A-20 and A-28 received them at Eluru railway station and kept them in a lodge at Dwaraka Tirumala. The said fact is established from the records of the Hotel wherein Room No.201 of Vasavi Paradise, Dwaraka Tirumala was booked in the name of A-20 for five people. Thereafter A-5, A-12, A-14 and A-17 conspired in the lodge and secured weapons to execute their evil plan to murder D-2 and D-3. They are alleged to have conducted reconnaissance at District

Jail, Eluru on 03.06.2014. As the things did not materialize to kill the deceased as the deceased were not released, A-17 went back to Delhi. Finally attempt is said to have been executed in the month of September 2014, in which the petitioner had also some role. It is true that some of the accused were granted bail by this Court, but the bail applications of the accused who participated in the commission of the offence, in one form or the other, was rejected. The learned Additional Public Prosecutor strenuously contends that the petitioner is a resident of Delhi, involved in some more cases and if he is released on bail there is every likelihood of he being evading the process of law as he is a hired assassin. Apart from that the record discloses that earlier the petitioner filed Crl.P.M.P.No.12263 of 2015 seeking bail, which was rejected on merits in the month of December, 2015 i.e., after filing of charge-sheet. The learned counsel for the petitioner tried to impress upon this Court by referring to the judgment of the Apex Court in Sanjay Chandra v. Central Bureau of Investigation^[1] to release the petitioner on bail basing on the guidelines laid on in the said case. A perusal of the said judgment would clearly show that the Apex Court was dealing with a case where maximum punishment which can be imposed on the accused therein even after conviction was seven years. The Apex Court categorically held that while determining the bail application, the charge and the severity of the punishment should also be taken into consideration. That being the position of law and having regard to the nature of the allegations made herein, which in my view are quite grave and serious in nature; and having regard to the fact that the request of the petitioner was earlier rejected by this Court, I am not inclined to grant bail.

Accordingly, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

^[1] (2012)1 Supreme Court Cases 40