

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.13493 of 2016

ORDER:

The petitioners, who are A-1 and A-8 in Crime No.115 of 2016 of Agiripalli Police Station, Krishna District, preferred the present application under Section 438 Cr.P.C., seeking release in the event of their arrest in the above crime registered for the offence punishable under Sections 143, 148, 307, 323, 354, 332 read with 34 IPC.

2. The case of prosecution is as under :

The S.I. of Police, Agiripalli Police Station presented a report against the petitioners and others alleging that on 06.06.2016 at about 10.15 a.m., while himself along with his staff were checking the vehicles at Pedda Kottayam of Agiripalli village, A-2 and A-3 came on a numberless motorcycle. Then the S.I. of Police stopped the vehicle and asked for records of the vehicle and also instructed them to come to Police Station as they were listed as Rowdy sheeters in the rolls of Agiripalli Police Station. On which the petitioners revolted against the S.I. of Police and staff, abused them in filthy language, refused to show the records and started altercating with the defacto complainant with an intention to obstruct the official duties of the informant. Then A-2 called his brother A-1 over phone, informed about the matter and asked him to come to police station to see the end of the informant. While so, the A-1, A-5, A-6, A-7 and A-9 armed

with sticks, knives, iron rods came there. A-1 started abusing the informant and also tried to attack the defacto complainant with a knife. When the police people intervened, which the uniforms of police constables were torn out. During which A-2, A-3 and A-7 pushed the lady constable with their hands and behaved indecently. Basing on these allegations, the above case came to be registered.

3. Learned counsel for the petitioners mainly submits that the present case came to be registered pursuant to filing of the Writ Petition against the Sub Inspector of Police with regard to registration of a false case against them. It is further contended that A-3 submitted a report against the son of the informant and the same was registered as an FIR at Agiripalli Police Station against the son of the informant. In view of the above, the informant bore grudge against the petitioners and other accused and is waiting to take revenge against them. Further, the learned counsel urged that since 90 days period is over by 05.09.2016, the petitioners are entitled for bail. The same is opposed by the learned Additional Public Prosecutor contending that the petitioners are not inside the Jail and as such they are not entitled for the relief under Section 167(2) Cr.P.C. It is further urged that the petitioners are involved in number of cases and if their plea is accepted there is every likelihood of evading the process of law.

4. It is to be noted that question of releasing the petitioners would not arise if the police failed to complete the investigation and file charge sheet within a period of 90 days from the date of arrest of the accused. In the instant case, the petitioners are not yet arrested. Further, A-1 is involved in 14 crimes and A-8 is involved in five crimes. Insofar as A-1 is concerned two crimes are registered in the year 2015, 2016 and another crime in 2014 and rest of the cases are from 2003 to 2010. Insofar as A-8 is concerned crimes are registered in the year 2014 and 2015. It appears that A-1 is a notorious criminal involving himself in all property offences and insofar as A-8 is concerned a suspect sheet was opened at Agiripalli police station. It is to be noted that previously both the petitioners filed CrI.P.No.10171 of 2016 seeking anticipatory bail and the same was dismissed on the ground that petitioners are involved in number of cases and if they are released on bail there is every likelihood of evading the process of law. Now the present petition is filed claiming the same relief. The issue as to whether an application for bail/anticipatory bail can be filed without there being any changed circumstances, came up for consideration before the Apex Court in ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu***¹, wherein the Apex Court held as under:

"Even though there is room for filing a subsequent bail application in cases where earlier applications have

¹ AIR 2005 SC 921

been rejected, the same can be done if there is a change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete."

5. In the absence of any change in fact or law and having regard to the judgment of the Apex Court referred to above, I am not inclined to grant bail to the petitioners.

6. Accordingly, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

Dt:22.09.2016
GM

