

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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CRIMINAL PETITION No.4055 of 2016

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ORDER:

The petitioner, who is accused No.1 in Crime No.232 of 2012 of Amalapuram Town Police Station, East Godavari District, filed the present Criminal Petition under Sections 437 and 439 of the Code of Criminal Procedure, 1973, seeking release in the above crime, which was initially registered as 'man missing' case and subsequently altered to Sections 364-A, 384, 302, 120 (b) read with 34 of the Indian Penal Code, 1860.

The allegations in the preliminary charge sheet filed by the Inspector of Police, Amalapuram Circle, would show that accused No.1, who is a professional criminal, sketched a plan to kidnap the persons and collected ransom from their relatives. Accused No.1 with the assistance of accused Nos.2 to 8, designed a plan to kidnap the deceased Venkata Satyanarayana Raju @ Sathibabu and collect ransom and also to do away with the life of the deceased so as to absolve the evidence. Accused No.2 also had a grouse against the deceased due to certain family matters. In pursuance of the plan, all the accused brought the victim/deceased on to the picture on a plea that he gained lakhs of rupees in cricket betting. The averments in the preliminary charge sheet further disclose that accused Nos.2 to 7 were entrusted with the job of informing the movements of the victim from time to time. On 23.08.2012 accused Nos.1,3 to 6 and 8 way laid the deceased on a road near his house along with Innova Car bearing No. AP 28 BP 0129 driven by accused No.8. Accused No.3 is alleged to have dressed up in a police uniform and sat in the car.

When the deceased came there, accused Nos.4 and 5 are alleged to have stopped the motorcycle of the deceased and kidnapped him under the guise of acting as a police officer and extorted two gold rings, motor cycle, mobile phone and an amount of Rs.4,41,600/- by using ATM cards of the deceased. Later, the accused made a call to the wife and relatives of the deceased for a ransom of Rs.30,00,000/-. The averments further disclose that on the next day i.e., on 24.08.2012 at about 9.30 P.M., accused Nos.2 and 7 alerted accused No.1 stating that the matter came to be known to all in Amalapuram and as such, all the accused developed the thought of eliminating the deceased. Accused Nos.3 to 5 and 8 acted to the tunes of accused No.1, purchased gunny bags, copper wire, cutting player at Hanuman Junction, administered the sleeping pills mixed in water to deceased forcibly and thereafter strangled him to death. After confirming his death, they set ablaze the dead body with petrol and diesel. Basing on these averments, preliminary charge sheet was filed against A.1 to A.9 for the offences punishable under Section 364-A, 384, 302, 120(B), 201 read with 34 IPC.

Learned counsel for the petitioner submits that the petitioner is in jail since 19.04.2015 and the entire investigation is complete and charge sheet is also filed.

On the other hand, learned Public Prosecutor opposed the same contending that the petitioner is the principal culprit in the offence and the other accused were acting as per the directions of the petitioner. He further submits that earlier this Court dismissed the petitions filed by the petitioner for grant of bail.

A perusal of the material on record would disclose that

earlier the petitioner filed CrI.P.No.7439 of 2015 seeking bail. When the Court expressed its opinion the same was withdrawn on 06.08.2015. Subsequently he filed CrI.P.Nos. 8882 and 11964 of 2015 which were dismissed by this Court on 07.09.2015 and on 23.11.2015. Again he filed CrI.P.No.14243 of 2015 seeking the same relief, which was dismissed for non-prosecution on 18.01.2016. Now the present petition is filed. 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 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.”

As stated earlier, this Court rejected the bail application of the petitioner even after filing of the charge sheet. 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 petitioner.

Accordingly, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

01.04.2016
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^[1] AIR 2005 SC 921