

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.1765 OF 2017

ORDER:

This petition, under Section 438 of the Code of Criminal Procedure, is filed by the petitioner-accused No.3 seeking pre-arrest bail apprehending his arrest in Crime No.15 of 2017 of P.S. Khanapur, Nirmal District, for the offences punishable under Sections 364, 365, 302 and 201 read with Section 34 of the Indian Penal Code (IPC) and Section 3(2)(v) of the SCs and STs (POA) Act, 1989 ("the Act" for brevity).

The case of the prosecution is that the petitioner herein is accused No.3. Accused No.1 developed illicit intimacy with the deceased, Sonnaila Sayamma and when the deceased forced him to marry her, on 04.02.2017, he took her and killed her by tying her saree to her neck and pulled her to death and to screen the evidence, he removed two SIM cards from his mobile, broke them and thrown them on the spot and also thrown his cell phone in canal. He also damaged the SIM card of his mother and thrown on the spot. Later, he returned back to his house, searched for his purse and observed that it was fallen at the scene of offence and due to fear, he did not go to the spot to get his purse. On 05.02.2017, he narrated the entire incident to accused No.2 including murder of the deceased and handed over the cell phone of the deceased to him and asked him to throw it to screen the evidence. Further, he narrated the incident to his neighbour, accused No.3-the petitioner herein and asked him to throw his mother's cell phone to screen the evidence.

The basis for registration of crime against this accused, the confessional statement of accused No.1 recorded by the police.

Section 201 IPC reads as under.

Causing disappearance of evidence of offence, or giving false information to screen offender:-

Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false; if a capital offence, shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if punishable with imprisonment for life, and if the offence is punishable with imprisonment for life or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; if punishable with less than ten years' imprisonment, and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Section 3(2)(v) of the Act reads as under.

“...commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for like and with fine...”

In view of the above, the act of the petitioner-accused No.3 would attract Section 201 IPC and also Section 3(2)(v) of the Act. Even otherwise, the investigation as on today is not completed and some more witnesses are to be examined. At this stage, if the petitioner-accused No.3 is enlarged on pre-arrest bail, there is every possibility of his interfering with the further investigation. Therefore, I find that it is not a fit case to enlarge the petitioner-accused No.3 on pre-arrest bail at this stage.

In the result, the Criminal Petition is dismissed.
Miscellaneous petitions, if any, pending shall stand dismissed.

(M.SATYANARAYANA MURTHY, J)

7th March 2017
RRB

