

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.7491 of 2017

ORDER:

This criminal petition is filed by the accused Nos.1 to 3, under Section 438 of Cr.P.C., to grant pre arrest bail in Crime No.167 of 2017 on the file of the Station House Officer, Badvel Urban Police Station, Kadapa District, for the offences punishable under Sections 324, 307 and 427 read with 34 of IPC.

2. The learned counsel for the petitioners submitted that even if the allegations made in the complaint are *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioners; therefore, it is a fit case to grant pre arrest bail to petitioner Nos.1 and 3. He further submitted that petitioner No.2 was murdered during pendency of this petition. *Per contra*, learned Additional Public Prosecutor representing the State submitted that tension is prevailing in the Village and if anticipatory bail is granted to the petitioners, there will be law and order problem in the village. He further submitted that the investigation is in progress; therefore, it is not a fit case to grant pre arrest bail to the petitioners.

3. The case of the prosecution is that on 07.7.2017, at about 11.30 pm, the petitioners along with others went to the house of *de facto* complainant along with JCB and demolished the house. The further case is that the petitioners beat the *de facto* complainant. Basing on the complaint lodged by the *de facto* complainant, the above case was registered.

4. The petitioners along with accused No.4 filed CrI.M.P.No.1349 of 2017 on the file of the Court of IV Additional Sessions Judge, Kadapa, under Section 438 of Cr.P.C., and the same was dismissed on 09.8.2017.

5. It is the contention of learned counsel for the petitioners that the *de facto* complainant encroached the Government land and constructed a house therein; therefore, the petitioners demolished the house. Even assuming, but not conceding, that the petitioners encroached the Government land, the competent authority is the Government to evict the *de facto* complainant that too by following due process of law. A perusal of the record *prima facie* reveals that the petitioners high-handedly entered into the house of the *de facto* complainant and demolished the house at about 11.30 pm and beat him. The time of offence indicates the high-handed behaviour of the petitioners. The record further reveals that the investigation is in progress.

6. Taking into consideration the nature of the offences and the stage of the investigation, this court is of considered view that it is not a fit case to grant pre arrest bail to the petitioner Nos.1 and 3. So far as petitioner No.2 is concerned, the petition is dismissed as abated.

7. Accordingly, the criminal petition is dismissed.

T.SUNIL CHOWDARY, J

September 12, 2017
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