

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3816 OF 2017

ORDER:

The present Criminal Petition is filed under Section 438 of the Code of Criminal Procedure, 1973, requesting for grant of anticipatory bail.

2. Petitioner is arraigned as accused No.2 in Crime No.103 of 2017 of Mogalthur Police Station, West Godavari District, Andhra Pradesh State. He along with accused No.1 alleged to have committed the offences punishable under Sections 333 and 307 read with 34 IPC.

3. Complaint allegations require advertence to appreciate the submissions made by Sri K. Chidambaram, learned counsel for the petitioner and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

4. Substantially, the allegations have been, that *de facto* complainant - Bokka Vinayaka Vijay and one Kambala Usha Rani, daughter of accused No.1 - Kambala Srinu, fell in love, and in that connection, having come to know about the same, her father (accused No.1) did not like it and a month prior to the incident herein, near Raju College located in Bheemavaram through his followers got the *de facto* complainant attacked and beat and it was placed before the elders, and thus, it was subsided. Accused No.1 then left the village

and started living in Balusumudi village. But, according to the *de facto* complainant, his daughter did not give up and continuing the affair by conversing with him over telephone every day. In that connection, accused No.1 warned the *de facto* complainant that he would kill him.

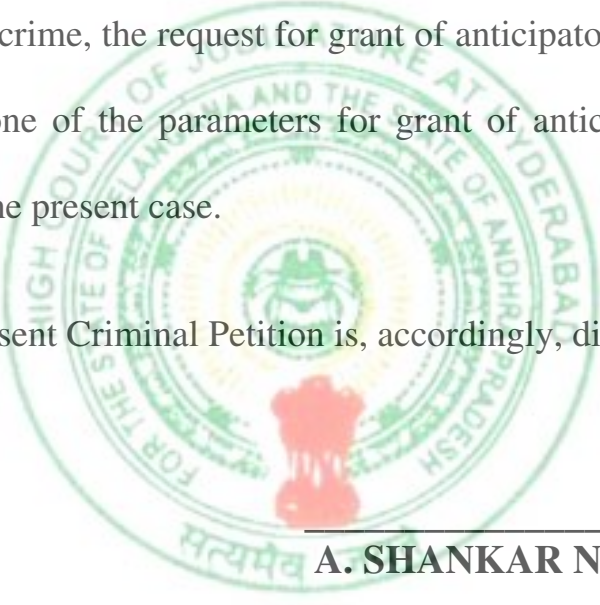
i) On 07.05.2017 at about 6.00 a.m., the *de facto* complainant was proceeding on his Hero Honda Motorcycle tying the milk cans and curd pockets in a tray to supply to the shops in Pathapadu village, and when he crossed Kasipatnam village limits and even Subramanya Swamy Temple and reached the entrance of Pathapadu village at about 7.00 a.m., one Bolero Van Truck bearing No.AP 16TF 2244 came in opposite direction driving it at high speed and shouting at him that he would kill him, dashed his motorcycle, due to which, he fell down and at that juncture, the van driver and some persons on motorcycle armed with iron rods came there and surrounded him; one K. Yedukondalu and M. Vishwanadham, who were near the Fish Tanks, rushed there; on seeing them, they left him and fled away. Since the *de facto* complainant sustained fracture to his leg, Yedukondalu and Vishwanadham sent a message to his relations and he was shifted to the hospital in a private vehicle. These have been the complaint averments made to the police at the hospital and his statement was reduced into writing by the concerned police.

5. The learned counsel for the petitioner would submit that the petitioner is nothing to do with the allegations levelled in the complaint and, in fact, driver of the Bolero Van Truck was arrested and remanded to judicial custody, whereas father of girl is shown as accused No.1 and the petitioner later was added as accused No.2 on the basis of confession said to have made by the driver of Bolero Van Truck. The learned counsel's submission is that confession of a co-accused cannot be used for any purpose and irrelevant for the purpose of recording conviction and that the petitioner is falsely implicated and, therefore, sought to grant anticipatory bail.

6. The learned Assistant Public Prosecutor strongly resisted the request, contending that the petitioner is one of the persons engaged by accused No.1 to do away the life of the *de facto* complainant. It is also his submission that earlier accused Nos.3 and 7 moved regular bail application in Crl.P. No.4647 of 2017 in the very same crime against whom similar allegations have been levelled as levelled against the present petitioner, and placed a copy of the said order for perusal. This Court rejected the said request by orders, dated 28.06.2017 observing that there is strong *prima facie* case against the petitioners - accused Nos.3 and 7 and record would show that they are very much aware of the wicked plan of accused Nos.1 and 2 to kill the *de facto* complainant and still they assisted them to a great extent.

7. The part said to have played by the petitioner herein is occurring in the confessional statement of accused No.3 that he played role in arranging Bolero Van Truck for using in the commission of offence which cannot lightly be brushed aside and whether the said confession is relevant and the evidentiary rule thereof can only be examined during trial. The present application is filed for grant of anticipatory bail and the very regular bail filed by accused Nos.3 and 7 was dismissed rejecting their request. Certainly, when kept in view, the gravity of crime, the request for grant of anticipatory bail has to be rejected as none of the parameters for grant of anticipatory bail are occurring in the present case.

The present Criminal Petition is, accordingly, dismissed.



A. SHANKAR NARAYANA, J

July 10, 2017.
Mgr