

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO. 2860 OF 2017

ORDER:

This Criminal Petition under Sections 437 and 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to enlarge the petitioners/A-1 and A-2 on bail in Crime No.6 of 2017 of Jammalamadugu Urban Police Station, Kadapa District for the offences punishable under Section 302 r/w 34 of IPC, Sec. 3 (l), (r), (s) of SCs and STs (POA) Act and they are in judicial custody since 31.01.2017.

The petitioners allegedly murdered the husband of the de facto complainant Ganji Padmavathi causing injuries with iron rod and big boulder. The allegations made in the complaint disclosed the role of each accused and as seen from the allegations, A-2 beat with an iron rod and later A-1 picked out the iron rod from the hands of A-2 and caused injury on the body of the deceased and when he fell down, while abusing him by his caste name, A-1 beat with big boulder on the head and caused the instantaneous death.

The petitioners' contention is that in view of earlier complaint pending before the Court between the same parties, this case is falsely foisted against these petitioners and there is delay in lodging the complaint also and that apart, A-2 is in judicial custody since long time and therefore, prayed to enlarge the petitioners on bail.

Whereas, the learned Public Prosecutor for the State of Andhra Pradesh contended that the eyewitness LW-4 son of the deceased and the de facto complainant narrated as to how the death of his

father was caused by these petitioners 1 and 2 and they involved in Crime No.162 of 2016 for the offence under Section 324 r/w 34 of IPC, A-2 also involved in other Crime No.95 of 2016 for the offences under Sections 498-A and 506 of IPC and Sections 3 and 4 of the Dowry Prohibition Act and that the investigation is not completed and prayed for dismissal of the petition.

In the complaint, the role played by each accused is narrated by the de facto complainant though she is not an eyewitness to the occurrence of the incident as she went to Thadipatri to appear for the II Year M.A. examinations. But, LW-4 son of the deceased narrated the entire incident to the police in the statement recorded by the police under Section 161 (3) Cr.P.C. He attributed specific overt-acts to each of the accused and the manner in which they caused instantaneous death of his father and husband of the de facto complainant. It shows that the petitioners 1 and 2 with pre-plan caused such injuries which led to instantaneous death of the husband of the de facto complainant. The delay in lodging the complaint is not a ground to enlarge the petitioners on bail at this stage, at best, it is a ground during trial if the delay was not explained by the prosecution properly and therefore on the ground of delay, the petitioners cannot be enlarged on bail.

The second ground urged before this Court is that there was rivalry between these two groups and on account of such rivalry, the petitioners are implicated. But, the rivalry or enmity between the deceased and the petitioners may be a cause either to commit such an offence or to foist a false case. But, it is not a substantive

piece of evidence. Therefore, on this ground, the petitioners cannot be enlarged on bail at this stage.

It is the contention of the learned Public Prosecutor that these petitioners committed an offence punishable under Section 324 r/w 34 of IPC in Crime No.162 of 2016 of Jammalamadugu Police Station and in view of criminal record of the petitioners, though it may be between the same, it is relevant at this stage either to grant or reject bail exercising jurisdiction under Section 439 Cr.P.C. on account of earlier dispute which is subject matter of Crime No.162 of 2016, as the deceased is the victim in the said case, the possibility of committing such offence cannot be ruled out prima facie, and in case the petitioners are enlarged on bail, there is every possibility of interfering with the investigation and threatening the witnesses and that too I find prima facie material to conclude that these petitioners committed the offence mentioned supra. Therefore, I find that it is not a fit case to grant bail to the petitioners at this stage as the investigation is in the midway. Consequently, the petition is liable to be dismissed.

In the result, this petition is dismissed.

Miscellaneous petitions, if any, pending in this petition, shall stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

Date:13.04.2017
ccm

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