

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.669 OF 2017

ORDER:

This petition is filed under Section 438 of Criminal Procedure Code (for short "Cr.P.C.") for grant of anticipatory bail to the petitioner/accused, in the event of his arrest in Crime No.216 of 2016 of Parigi Police Station, Ranga Reddy District, registered for the offences punishable under Section 302 of Indian Penal Code (for short "I.P.C.").

The case of the prosecution is that on 13.09.2016 Station House of Officer, Parigi Police Station received information from Osmania General Hospital, Hyderabad that one Byagari Kamala, W/o Late Rama Krishna was admitted in Hospital due to burn injuries on 12.09.2016. After receiving such information, Head Constable of Parigi Police Station went to Osmania General Hospital and recorded the statement of the injured, who received burn injuries. According to the statement of injured Kamala, she developed illicit relationship with the petitioner for the past 10 years after the death of her husband. But she objected for the same from last 3 years. Since then the petitioner/accused used to quarrel with her regularly in drunken condition. She also informed about the same to the brother of the petitioner/accused. After some time of the said incident, when the petitioner came to the house of the Kamala, she closed the doors and informed the same to the brother of the petitioner/accused, then the petitioner/accused allegedly promised not to torture her in future. But on 12.09.2016 in the

night hours, the petitioner allegedly came in drunken condition, picked up quarrel with her and when the injured Kamala questioned about his nature, he took kerosene can and sprinkled the same on her body and set fire. As a result of which, she received burn injuries and in the said incident, petitioner also received burn injuries. On the strength of the said statement, police registered a case and issued F.I.R.

The present petition is filed by the petitioner apprehending his arrest on various grounds and contended that he did commit no offence and that he has received 70% burn injuries and produced a certificate issued by Gandhi Hospital, Secunderabad to show that he is suffering from ill-health.

Sri B.Bal Reddy, learned counsel for the petitioner, contended that the petitioner is suffering from ill-health and undergoing treatment in Gandhi Hospital, Secunderabad.

Learned Public Prosecutor for the State of Telangana opposed the petition on the ground that the participation of the petitioner in the crime can be established from the photos filed by him and the medical certificate dated 27.12.2016 issued by the Gandhi Hospital shows *prima facie* that the petitioner committed such offence, hence the petitioner cannot be enlarged on pre-arrest bail.

As seen from the material and contentions raised by the learned counsel for the petitioner; the petitioner also sustained 70% burn injuries and in support of his contentions, he produced 3 positive photographs. The photos disclosed the bandage to his right hand, partly healed burn injuries over the

chest and abdomen. Thus, the petitioner sustained burn injuries in the same incident, in which the said Kamala was burnt. The factum of petitioner sustained burn injuries strengthens the case of the prosecution that the petitioner is the person, who set fire to the body of Kamala in drunken state. The certificate issued by the Superintendent, Gandhi Hospital, Secunderabad is another strong piece of evidence to connect the petitioner *prima facie* with the offence punishable under Section 302 of I.P.C. Therefore, the material on record, *prima facie*, establish that the petitioner developed illicit contact with the deceased and when she objected for the same after sometime, he grew wild and set fire to her body, which resulted in her death. Hence, the petitioner, *prima facie* committed such heinous offence, deserves no sympathy.

The main contention of the learned counsel for the petitioner is that the petitioner is undergoing treatment. No doubt, the petitioner appears to have undergoing treatment, but that is not a ground to enlarge the petitioner on pre-arrest bail. Even if he is arrested, concerned police are bound to provide necessary treatment to the petitioner while he is in judicial custody.

Grant of pre-arrest bail is purely discretionary relief and unless this Court, *prima-facie*, concludes that there is no material to establish that the petitioner committed offence and that there is no possibility of interfering with the further investigation, the Court cannot exercise its discretion to grant pre-arrest bail. Here, the material produced by the petitioner

itself shows that he committed such offence and received injuries in the same incident. Hence, it is highly difficult for me to record such satisfaction that the petitioner is not the person who committed murder of Kamala. Therefore, I find no ground to grant pre-arrest bail to the petitioner. Consequently, the petition is liable to be dismissed.

In the result, the petition is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

10.02.2017
Ksp



JUSTICE M. SATYANARAYANA MURTHY