

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5858 of 2017

ORDER:

This criminal petition is filed by accused Nos.6 and 7, under Section 438 of Cr.P.C., to grant pre arrest bail in Crime No.74 of 2016 on the file of the Station House Officer, Gurazala Police Station, Guntur District, for the offences punishable under Section 147,148, 452, 307 and 302 read with 149 of IPC and Section 25 of the Arms Act.

2. The learned counsel for the petitioners strenuously submitted that the petitioners were falsely implicated due to political affiliations of the petitioner. He further submitted that the *de facto* complainant, for the reasons best known to her, implicated the petitioners in this case. *Per contra*, learned Additional Public Prosecutor representing the State submitted that the allegations made in the complaint constitute the offences alleged to have been committed by the petitioners; therefore, they are not entitled to pre-arrest bail.

3. One Pondugala Lakshmi is the *de facto* complainant in this case. The case of the prosecution is that on 18.5.2016, at about 9.30 p.m., the petitioners along with other accused formed into an unlawful assembly, entered into the house of the *de facto* complainant situated at Venkatrao Colony, Gurazala, dragged her husband-China Yesuraju outside the house and beat him with sticks and rods, stabbed him with knives, and hacked with axes. Due to the injuries, China Yesuraju died instantaneously.

4. The petitioners filed CrI.M.P.No.554 of 2017 on the file of the Court of X Additional Sessions Judge, Gurazala, under Section 438 of Cr.P.C., and the same was dismissed on 04.4.2017. Accused No.13 filed Criminal

Petition No.3244 of 2017 under Section 438 of Cr.P.C., and this Court dismissed the same on 05.6.2017.

5. A perusal of the record reveals that at one point of time, the petitioners and China Yesuraju worked in one political party. Due to one reason or the other, China Yesuraju left the party and the petitioners have been continuing in the same party. Political rivalry might be the root cause for commission of the alleged offence by the petitioners.

6. While deciding the petitions under Section 438 of Cr.P.C., the Court has to strike a balance between the personal liberty of an individual and exercise of investigational powers by the Investigating Agency. The Court has to consider the possibility of false implication of the accused.

7. In order to appreciate the contention of learned counsel for the petitioners, this court perused the Case Diary. The names of petitioners are shown as accused at the earliest point of time i.e., in the F.I.R. A perusal of the record reveals that while petitioner No.2-accused No.7 dragged China Yesuraju out of the house, petitioner No.1-accused No.6 cut his throat. The record *prima facie* reveals the presence of the petitioners and the role played by them in commission of the offences.

8. Taking into consideration the nature of the offences alleged to have been committed by the petitioners, this court is of considered view that it is not a fit case to grant pre arrest bail to the petitioners.

9. In the result, the criminal petition is dismissed.

T.SUNIL CHOWDARY, J

September 05, 2017
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