

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.4171 of 2017

ORDER:

In this petition filed under Section 437 and 439 Cr.P.C, the petitioner/A.1 seeks regular bail in SC No.110 of 2016 pending on the file of IX Additional District and Sessions Judge, Chittoor arising out of Crime No.130 of 2015 of I Town PS, Chittoor, which was registered for the offences under Sec.147, 148, 302, 307, 326, 120-B, 109 r/w 149 IPC, Sec.212, 216, 201 IPC, Sec.25(1A), Sec.25(1AAA), Sec.25(1B)(a), Sec.25(1B)(c), Sec.27(3) and Sec.30 of the Arms Act, 1959.

2) It was a ghastly murder of "Mayor couple" occurred on 17.11.2015, wherein Smt. Katari Anuradha, the Mayor of Chittoor and her husband Katari Mohan were brutally killed in the Mayor's chamber at Municipal Corporation Office by A.1 to A.5. The other accused were involved in the offence in one way or other. The police have charge sheeted altogether 23 Accused.

3) The charge sheet would disclose, the barbaric act was planned and perpetrated by the petitioner/A.1 who is the Brutus in this episode as he happened to be the own nephew of the Mayor Couple.

Briefly stating, as per charge sheet there were political rivalries between two groups—one group headed by Ex-MLA, C.K.Babu belonging to Congress Party and other group headed by deceased no.2—Katari Mohan belonging to Telugu Desam Party for achieving the political supremacy over the area, which led to physical attacks and counter

attacks, resulting in cases between the two groups. The petitioner/A.1 originally belonged to the group of deceased no.2—Katari Mohan. It is alleged that during the period, when the deceased no.2 was jailed for about three years in the group rivalry cases, petitioner/A.1 used to look after the business and political activities of deceased no.2 and used to assist his wife deceased no.1 and gradually he held sway over his group. However, after deceased no.2 returned from jail, it is alleged, petitioner/A.1 had to return the supremacy to him and had to content with second slot which he did not relish. That apart over the period some business and group rivalries cropped up between both of them which ultimately led petitioner/A.1 to terminate the Mayor couple. Accordingly, it is alleged, on 17.11.2015 in the morning at about 11:45am, when the Mayor couple and some others assembled in the Chamber of Mayor at Municipal Corporation and attending some work, A.1 to A.5 went in Burkas and at first A.1 opened fire on deceased no.1 and she received head injury and fell down and died instantaneously. When the *defacto* complainant (LW.1) and some others who were present in Mayor's chambers, came to the rescue of deceased no.2, A.4 hacked LW.1 on his back and A.2 fired at deceased no.2 and the deceased no.2 ran towards Council Conference Hall, and A.1 to A.5 chased deceased no.2 in the Conference Hall and hacked him with sickles. Later the accused retreated and the injured were rushed to the District Headquarters Hospital, Chittoor, where the Medical Officer examined the deceased no.1 and declared as dead. Later LWs.1 and 2 were referred to CMC, Vellore for better treatment and while undergoing treatment, deceased no.2 succumbed to injuries and died at

9pm on the same day. The police of Chittoor I Town PS, on being informed, rushed to the Hospital and recorded the statement of LW.1 and continued other proceedings. On completion of investigation, charge sheet was laid against 23 accused as stated.

Hence, the instant bail application.

4) It may be noted that earlier the petitioner/A.1 filed Crl.P.No.16351/2016 seeking bail and the same was dismissed by the High Court on 15.12.2016 as withdrawn.

5) Heard Sri P.Kesava Rao, learned counsel representing for Sri Ramakrishna Akurathi, learned counsel for petitioner and learned Public Prosecutor for the State (Andhra Pradesh).

6) Staunchly denying the petitioner's involvement in the offence, learned counsel for petitioner sought bail on the following submissions:

Firstly, he argued, as per charge sheet, there were political rivalries between the groups of deceased no.2 and C.K.Babu and cases are also pending between them and in that backdrop, any of the disgruntled might have murdered the deceased but the police have implicated the petitioner/A.1 on untenable grounds.

Secondly, he would argue that the incident was occurred around 11:45am and police came to know about the incident and also about the assailants by about 12:00noon but they have registered the FIR belatedly at 7:00pm on 17.11.2015 which implies that they have roped in the petitioner/A.1 after due deliberations.

Thirdly, he argued that as per LW.1's version, before opening fire on deceased, the petitioner/A.1 removed his Burka and thereby LW.1 and others present there, could identify one of the assailants as petitioner/A.1. When the petitioner/A.1 and others wanted to commit the offence by secreting their identity, the question of A.1 opening his Burka before opening fire does not arise and it is quite unbelievable. It would indicate LW.1 and LW.2, who claimed to have seen A.1 opening his Burka, concocted a story to implicate A.1.

Fourthly, he would submit that as per G.D entries of Chittoor I Town PS, A.2 and A.4 went to the I Town PS at about 12:45pm on the date of incident and allegedly stated to the S.I that they came to know that the Mayor couple were murdered and A.1 and his henchmen were suspected to be the assailants and since they were the followers of A.1, though they had nothing to do with the offence, the followers of the deceased may cause harm to them and sought protection and police extended protection to them in the Police Station. He would further submit that on the same ground, A.3 also allegedly approached Police Station at about 7:30pm and sought for protection and he too was extended protection and later at about 7:45pm, the S.I of Police sent A.2 to A.4 to Marredpally village on their request with the police escort and kept them under surveillance. Learned counsel vehemently argued that when by 12:00noon itself, the police knew the particulars of the assailants and by 7:00pm, they already registered FIR against A.1 and more particularly against A.2 to A.4, sending A.2 to A.4 under police escort to a different village and keeping surveillance on them would appear ridiculous and

imaginary. He argued that the entire episode would cast serious doubt about the involvement of the accused in the offence and veracity of FIR.

Nextly, he would submit that petitioner/A.1 being a law abiding citizen, voluntarily surrendered before the Court and he has been in custody since last 19 months and entire investigation was completed and Sessions Case No.110 of 2016 is now coming up for framing charges and as there is no threat of meddling with investigation and as the case will take some time for completion of trial, the petitioner/A.1 may be released from pre-trial incarceration so as to enable him to defend his case and he would abide by the conditions if any, imposed by the Court. He placed reliance on *Chenna Boyanna Krishna Yadav vs. State of Maharashtra and another*¹.

7) Per contra, severely opposing the bail, learned Public Prosecutor would argue that it is the case of a day-light murder of the Mayor and her husband in her Chambers at Corporation Office in the midst of eye witnesses, who came to meet the Mayor on some work. The brutality of petitioner/A.1 was such that despite the deceased no.1, who was his aunt and a lady, requesting him not to kill her, he pierced bullets into her head from close range and not satisfied, he along with other assailants chased the fleeing deceased no.2, who was his own uncle and hacked him to death in the Conference Hall which ghastly incident tremored the entire Chittoor Town and also the District with shock and fear. He would submit that petitioner/A.1 and some other assailants were clearly identified by

¹ (2007) 1 SCC 242

LW.1, LW.2 and some other eye witnesses and as such, the police have strong evidence about his involvement in the crime.

Nextly, he would submit that petitioner/A.1 was involved in some other crimes also and while on bail in some cases, he committed the present offence and therefore, the propensity of his committing some more offences, if granted bail, cannot be ruled out. Further, having regard to the background facts of the case that both the deceased and petitioner/A.1 belonged to same family and political and property disputes existed between them, there is a threat to the life of petitioner/A.1 in the hands of the political opponents if he is enlarged on bail. He would further submit that the petitioner/A.1 has a considerable political clout and muscle strength to apply threat and coercion on the witnesses.

He would thus argue that having regard to the grave nature of offence and the background of petitioner/A.1 and his tendency to repeat the similar type of offences, the possibility of his influencing the witnesses, bail may be refused. He placed reliance on *Virupakshappa Gouda and another vs. State of Karnataka and another*² wherein the parameters for granting bail were discussed.

8) Answering the points raised by learned counsel for petitioner, learned Public Prosecutor argued that there was no delay in registering the FIR. In this case, the police no doubt received the information about the brutal murder of Mayor couple at about 12:00noon and also regarding the

² (2017) 5 SCC 406

involvement of some accused. However, since the victims were in critical situation lying in the hospital and as the incident spread in the entire town as a flame of forest posing law and order problem due to some miscreants going rampage causing destruction of public and private properties, the police department in general and the Police Officers of I Town PS in particular were preoccupied with many crucial and important functions like rushing to the Hospital to monitor the condition of the wounded LW.1 and deceased no.2 to record their statements if possible; arranging the police to guard the crime scene; clamping the police force at vulnerable points of mob-frenzy Town to prevent vandalism. After recording the statement of LW.1, the Inspector of Police I Town PS registered the FIR at about 7pm and issued express FIR to all concerned. Therefore, he would argue, there was absolutely no delay in registering the FIR. He relied upon a judgment of the Division Bench of this Court in *Maskoori Srinivas vs. The State of A.P rep. by its Public Prosecutor, High Court of A.P, Hyderabad*³ to buttress his argument that when cryptic information was received and police preoccupied with other essential functions, delay in registration of FIR was not fatal.

Nextly, defending the action of the Inspector in keeping surveillance on A.2 to A.4 while sending them to Marredpally village under police escort, learned P.P would argue that as per Rule No.450 of A.P Police Manual, the police have discretion to keep surveillance on suspected persons without arresting them so as to watch their movements and

³ 2017 SCC Online Hyd 112

ascertain the facts relating to an offence. As such, merely because A.2 to A.4 were FIR mentioned accused, their non-arrest and keeping surveillance on them is not a procedural deviation to infer that a false case is foisted against the accused particularly A.1.

He thus prayed to dismiss the bail.

9) The point for determination is:

“Whether bail can be granted to petitioner/A.1?”

10) **POINT:** Sessions Case No.110 of 2016, it is informed, at the stage of consideration of charges by the IX Additional District and Sessions Judge, Chittoor. It is trite law that a pre-trial incarceration shall be neither punitive nor preventive unless the facts and circumstances severely compel. What is germane for consideration of a bail application has been enunciated by Apex Court in a number of cases including the *Virupakshappa Gouda* (2 supra). A compilation of those prerequisites are:

- a) severity or gravity of the offence;
- b) *prima facie* accusation against the offender;
- c) severity of punishment in the event of conviction;
- d) the chances of accused absconding if granted bail;
- e) the propensity of accused repeating the crimes;
- f) reasonable apprehension that the accused influencing the witness and thwart the course of justice.

The case on hand needs to be tested on the anvil of the above canons.

11) Record shows, the case on hand is a barbarous crime wherein the Mayor couple were brutally murdered in their Chamber at Corporation Office in Chittoor under the broad day light in the presence of some persons who came on their works. As rightly stated by learned Public Prosecutor, the piteous appeals of the Mayor fell in deaf ears of the assailants and bullets were pierced into her head causing her instantaneous death. Neither her husband was left as he was chased and hacked to death in the Conference hall. That, within minutes the entire town was gripped under fear and shock could be understood. Thus no exposition is necessary to describe the offence as gruesome, shocking and grave one. Coming to the involvement of petitioner/A.1, a perusal of the charge sheet shows, the prosecution flanked eye witnesses to speak of the involvement of petitioner/A.1 and some other accused who allegedly participated in the murder. True that learned counsel for petitioner raised an argument that if the assailants wished to conceal their identity by wearing Burkas, it would be unbelievable that they would remove their Burkas at the crucial time of offence. This argument in the light of evidence of LW1 and LW2 has to be scrutinized only after trial but it is not apt to make any observation at this stage in this bail application. Similarly, the argument about the delay in registration of FIR and the surveillance on A.2 to A.4 is concerned, they require a thorough examination only after completion of trial. At present, these instances projected by learned counsel for petitioner will not have any direct impact on the innocence of petitioner/A1. As already stated, the

said argument can be considered only after full-fledged trial. As the matter stands, in the light of the statements of the eye witnesses, it must be said, there is a strong *prima facie* material against petitioner/A.1.

Sofaras severity of the punishment is concerned, one of the charges is under Sec.302 IPC which is punishable with death or life imprisonment. Thus, it is needless to emphasize the gravity of the charge.

Then the possibility of abscondance of accused if granted bail is concerned, the prosecution has not raised such apprehension.

The possibility of accused repeating the crimes if granted bail is concerned, learned P.P vehemently argued that the accused involved in S.C No.330/2010 on the file of IX Additional District Court, Chittoor and after getting bail in that case, he committed the present offence and he also involved in some other cases and therefore, there is every likelihood of his committing some other offences if granted bail. The apprehension of the prosecution cannot be brushed aside lightly in view of the background facts relating to the petitioner/A.1.

Sofaras the possibility of petitioner/A.1 influencing the witnesses if released on bail is concerned, the submission of learned P.P is that the petitioner enjoyed clout on the town due to his political affiliation and men and money power and therefore, it will be very difficult for the police to protect the witnesses from being influenced by the petitioner. This apprehension having regard to the background and conduct of the petitioner appears to be reasonable one. It is further submitted by the P.P

that there is a danger to the life of petitioner too in the hands of the supporters of the deceased, which also cannot be ignored. So when a holistic view of the matter is taken into consideration, bail cannot be granted to the petitioner at this stage.

12) Accordingly, the bail application is dismissed.

U. DURGA PRASAD RAO, J

Date: 03.07.2017

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