

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8943 of 2017

ORDER:

This criminal petition is filed, by the petitioner-accused No.6 under Section 438 Cr.P.C., to grant pre arrest bail in Crime No.228 of 2016 on the file of the Station House Officer, Hussaini Alam Police Station, Hyderabad, registered for the offences punishable under Sections 147, 148, 302 and 120-B read with 34 IPC.

2. Learned counsel for the petitioner submitted that even if the allegations made in the complaint are *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioner for the offence punishable under Sections 302 and 120(B) read with 34 IPC. He further submitted that the petitioner is not in a position to move from the bed, therefore, it is a fit case to grant pre-arrest bail to the petitioner. ***Per contra***, learned Additional Public Prosecutor representing the State submitted that the petitioner along with other accused killed the deceased. He further submitted that the investigation is in progress, therefore, it is not a fit case to grant pre-arrest bail to the petitioner.

3. The case of the prosecution is that the petitioner herein along with other accused hatched up a plan to liquidate the deceased, by name Mirza Khaleel Baig. In pursuance of their plan, on 22.02.2016 accused Nos.1, 4 and 5 dragged the

deceased out of the car and killed him. Basing on the complaint lodged by the son of the deceased, the above case was registered.

4. While deciding the anticipatory bail petitions, the Court has to consider whether there is any *prima facie* material against the petitioner or not. If the Court satisfies that there is no *prima facie* material, then the Court can grant pre-arrest bail to the petitioner. The petitioner is none other than own brother of the deceased. There is some dispute between the petitioner and the deceased with regard to the ancestral property. A perusal of the record reveals that the petitioner sold the house of the deceased to A1 without any right whatsoever. Civil suits are also pending between the parties.

5. The learned counsel for the petitioner submitted that the petitioner is not in a position to move from the bed. A perusal of the medical certificate reveals that the petitioner is suffering with joint swelling. This Court dismissed the earlier bail petition filed by the petitioner under Section 438 Cr.P.C. vide CrI.P.No.16945 of 2016 on 26.12.2016. While dismissing the bail petition, this Court made an observation that the petitioner along with other accused conspired to kill the deceased. A perusal of the record *prima facie* reveals the role played by the petitioner in the commission of the offence. Whether the petitioner was falsely implicated or not will come to light at appropriate stage.

6. Taking into consideration the gravity of the offence alleged to have been committed by the petitioner, this Court is of the considered view that it is not a fit case to grant pre-arrest bail to the petitioner.

7. Accordingly, the Criminal Petition is dismissed.

T.SUNIL CHOWDARY, J

11th October, 2017

Rns

