

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.4200 of 2017

ORDER.

This Criminal Petition is filed under Sections 437 and 439 of Cr.P.C. by the petitioners/A1 and A2 seeking regular bail in Cr.No.363 of 2017 of S.R.Nagar Police Station, wherein the accused allegedly committed offences punishable under Sections 307 and 436 I.P.C.

The prosecution case is that A.1 and A.2 are the couple. Injured/complainant V.Yadagiri is the brother of A.2. Both are residing in their own houses at Banjara Nagar, Borabanda, Hyderabad. A.1 lent money to the complainant on interest but the complainant failed to repay the amount and in this regard, some disputes arose between them. Though panchayat was raised by the accused, the complainant did not repay the amount. Keeping the grudge in mind, on the intervening night of 9/10-5-2017, while the complainant and his sister-in-law's grandson by name Arun were sleeping in the verandah of their house, the A.1 and A.2 went along with plastic packets filled with petrol and threw on them and lit fire. Both the complainant and the boy Arun suffered burn injuries and they were taken to Gandhi Hospital. On the statement of the complainant, initially, police registered crime under Sections 307 and 436 I.P.C.

While undergoing treatment in Gandhi Hospital, Secunderabad, the boy Arun succumbed to burn injuries. Hence,

Section 302 of I.P.C. was added and express F.I.R. was issued by the police. Investigation is reported to be pending.

Denying the charges, learned counsel for the petitioners would urge for bail mainly on the submission that in the earliest statement of complainant, through some suspicion was cast against the accused, but victim did not identify the assailants. However, in the subsequent statement of the complainant and in the Dying Declaration of the boy, they allegedly identified the assailants as the accused which is quite unbelievable. He would further submit accused No.2 was suffering with lumbar disc problem and sought for bail.

Seriously opposing the bail application, the learned Additional Public Prosecutor would submit that the victims have clearly identified the accused among five assailants and since they are the close relations, there was no identity problem and merely because, their names were not clearly mentioned in the complainant, that cannot be a ground to disbelieve their version. He would submit that investigation is in progress and charge sheet yet to be filed.

A perusal of the Dying Declaration of the deceased boy Arun recorded by 11<sup>th</sup> Additional Chief Metropolitan Magistrate, Secunderabad, shows that a boy referred the name of A.1 as assailant. He did not mention about the petitioner/A.2. In the statement of complainant recorded by the same Magistrate, the complainant referred both names of the accused as the assailants.

Thus, there is a strong prima facie case against both the petitioners/accused.

C.D. file shows that 13 (thirteen) witnesses are examined and investigation is still pending.

Having regard to the gravity of the charge and pendency of investigation, it is not a fit case to grant bail to the petitioners/A.1 and A.2 at this stage.

Accordingly, this Criminal Petition is dismissed.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

Dt: 23-6-2017.

Dvs

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U.DURGA PRASAD RAO,J



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DATED 23-6-2017