

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
MONDAY, THE ELEVENTH DAY OF DECEMBER, TWO THOUSAND AND SEVENTEEN
: PRESENT :
THE HONOURABLE DR JUSTICE SHAMEEM AKTHER

CRLP .No. 11714 of 2017

Between:-

1.Malineni Bhanu Murthy, S/o. Nageshwara Rao
2.Inturu Venkata Durga Vara Prasad, S/o. Chinna Brahmaiah
..... Petitioners/Accused Nos. 2 & 4

AND

The State of Andhra Pradesh, Represented by Station House Officer,
Nagaram Palem Police Station, Guntur Urban District, Represented by
Public Prosecutor for the State of Andhra Pradesh, High Court of Judicature
At Hyderabad.

...Respondent/Complainant.

Petition filed under Section 438 of Cr.P.C. praying that in the circumstances stated in the petition and grounds thereof, the High Court may be pleased to release the petitioners on bail in the event of their arrest in Crime NO. 296 of 2017 of Nagaram Palem Police Station, Guntur Urban District.

The petition coming on for hearing, upon perusing the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri SD. Arif Basha, Advocate for the Petitioners and the Addl. Public Prosecutor(AP) for the Respondent-State, the Court made the following

ORDER :-

“This petition is filed under Section 438 Cr.P.C. to grant anticipatory bail to the petitioners-accused for the offences alleged under Sections 306 r/w 34 IPC and 3 (1) (r) and 3 (1) (s) of SCs & STs (POA) Amendment Act, 2015.

2. Heard learned counsel for the petitioners-accused, learned Additional Public Prosecutor representing the State and perused the record.

3. Learned counsel for the petitioners-accused would submit that the petitioners are innocent persons and falsely implicated in this case. The petitioners-accused have nothing to do with the alleged suicide committed by the husband of the de facto complainant. The husband of the de facto complainant was in the habit of giving suicidal threats. The husband of the de facto complainant was promoted from Office Subordinate to Junior Assistant as per the procedure established in the year 2015. Even the alleged allegations are not in public view. The husband of the de facto complainant was in the habit of making similar allegations and he did not discharge his duties as per the procedure and rules established. A charge memo was issued to him. Relied on decisions reported in J.SUMANA V ENDLURI ASEERWADAMMA AND ANOTHER ¹ and P.BHASKAR RAJU V STATE OF TELANGANA AND OTHERS ² and ultimately, prayed to allow the application.

4. On the other hand, learned Additional Public Prosecutor opposed the grant of bail to the petitioners-accused stating that there is direct nexus between the abetment to commit suicide and utterance made by the petitioners-accused. There is specific mention of abusing N.Ravi Kumar (hereinafter referred to as ‘the deceased’) in the name of his caste in public view. There is suicidal note to the effect revealing the manner how the deceased was driven to commit suicide. The allegations are grave. It is not a fit case to grant bail to the petitioners-accused under Section 438 Cr.P.C.

¹ 2003 (1) ALD (CRL) 252 (A,P.)

² 2015 (2) ALD (CRL.) 150

5. In the course of submissions, it is brought to the notice of this Court that the other two accused were granted regular bail.

6. As per the F.I.R. lodged in this case, the deceased who was working as Office Subordinate was promoted as Junior Assistant and transferred to work at Ponnur, Medical and Health Centre. It is also alleged that the petitioners and other accused have not posted to the place of convenience of the deceased and he was transferred to Ponnur instead of Guntur. It is also alleged that the petitioners developed grudge against the deceased. He was physically and mentally harassed, including in the name of his caste and ultimately, he consumed poison on 17.11.2017 and while undergoing treatment on 22.11.2017, he died.

7. As per the records, the deceased was promoted as Junior Assistant on 04.05.2015 and posted to work at Ponnur, Medical and Health Centre, pursuant to the orders passed by D.M. & H.O. Guntur District. The D.M. & H.O. lodged a report on 09.09.2016 to the Superintendent of Police, Guntur, wherein it is alleged that the deceased gave threats to his officers stating that his promotion was delayed. He was being harassed and made a press release to that effect. By that report, it was brought to the notice of the authorities concerned that the deceased was irregular in duties and causing inconvenience to the public. In spite of repeated instructions and issue of officials memos, his services were not satisfactory. A charge memo, dated 19.09.2016 was issued by the office of the D.M. & H.O., Guntur, vide Memo Reference No.2438/E2/2016, wherein the following charges were framed against the deceased.

1. ARTICLE NO.1: That Sri N.Ravi Kumar, Jr. Asst., O/o the Medical Officer, CHC Ponnur, Guntur District is on willful un authorized absent to his duties from 25.06.2016.

2. ARTICLE NO.2: He did not maintained certain records and registers which are mandatory to any institution. An amount of Rs.1,30,800/- was released to CHC, Ponnur for the year 2015-16 under different heads. He did not submit the final account and not attended to the NRHM audit.

3. ARTICLE NO.3; He did not handed over the complete charge of the post of Jr.Asst in spite of many phone calls and personal intimations and not obey the instructions of the higher authorities and not attended to his duties properly.

4. ARTICLE NO.4: He did not done duties as per his job chart up to the mark as Junior Assistant and caused dislocation to CHC administration and shows gross dereliction of duties and lack of integrity, devotion to duty and thereby violated Rule (3) of APCS (Conduct) Rules of 1964 besides causing inconvenience to the administration.”

Though explanation was given, enquiry is pending against the deceased. It is evident from the material placed before this Court that the deceased was deliberately absent from his duties from 25.06.2016. He is not maintaining office records and registers. An amount of Rs.1,30,800/- was released to CHC, Ponnur, for the year 2015-16 under different heads. The deceased did not submit final account. The deceased did not handover the complete charge of his office in spite of many phone calls and personal intimations and disobeying the instructions of the higher officers. There is gross negligence, lack of integrity, devotion to duty and deceased violated Rule (3) of APCS (Conduct) Rules 1964 and caused inconvenience to the administration.

8. In P.Bhaskar Raju Vs. State of Telangana and others (2 cited supra), it is alleged that the accused abused the de-facto complainants as ‘Lambada Bastards’. He has no right to do so. The alleged occurrence said to have made at the house of the accused VRO. There is no mention about the public view or persons or public witnessing the incident and it was held that no offence under Section 3(1)(x) of SCs & STs (POA) Act was made out.

9. In J.Sumana Vs. Endluri Aseerwadamma and another (1 cited supra), it was alleged that the accused abused the de-facto complainant in his chamber. There was no public in the chamber and it was not within 'public view'. Therefore, it was held that no offence can be made out under Section 3(x) of SCs & STs (POA) Act.

10. The differences between the deceased and the petitioners arose in the course of their discharge of official functions. There is no specific mention about 'public view' when the alleged utterances were made in the name of caste.

11. As per the material placed before this Court, the deceased has got questionable conduct. Earlier also, he threatened his superiors to implicate in criminal cases. No doubt, the deceased committed suicide in the instant case. The circumstances that led to the commission of suicide are required to be established after due trial. It is also required to be established whether the abuses alleged to have been made by the petitioners are in public view after due trial. In view of the facts and circumstances of the case, it is unsafe to hold at this juncture that the petitioners-accused are responsible for the commission of suicide. False implication of the petitioners-accused in the commission of alleged offences cannot be ruled out.

12. Under these circumstances, the petitioners-accused can be granted bail under Section 438 Cr.P.C.

13. In the result, the Criminal Petition is allowed directing the petitioners-accused to surrender before the Station House Officer, Nagaram Palem Police Station, Guntur Urban District, within 15 days from the date of this order. On such surrender, the said S.H.O. shall release the petitioners-accused on bail, on each of them executing a personal bond for Rs.10,000/- (Rupees ten thousand only) with two sureties each in a like sum to his satisfaction. On release, the petitioners-accused shall abide by the conditions mentioned under Section 438 (2) Cr.P.C. The petitioners-accused shall attend before the S.H.O., concerned on every Sunday between 8.00 A.M. and 10.00 A.M. till filing of charge sheet."

//TRUE COPY//

ASSISTANT REGISTRAR

for ASSISTANT REGISTRAR

To

- 1.The Station House Officer, Nagaram Palem Police Station,
Guntur District.
- 2.Two CCs to Public Prosecutor(AP), High Court of Judicature at Hyderabad.
(OUT)
- 3.One CC to Sri SD. Arif Basha, Advocate(OPUC)
- 4.One spare copy.

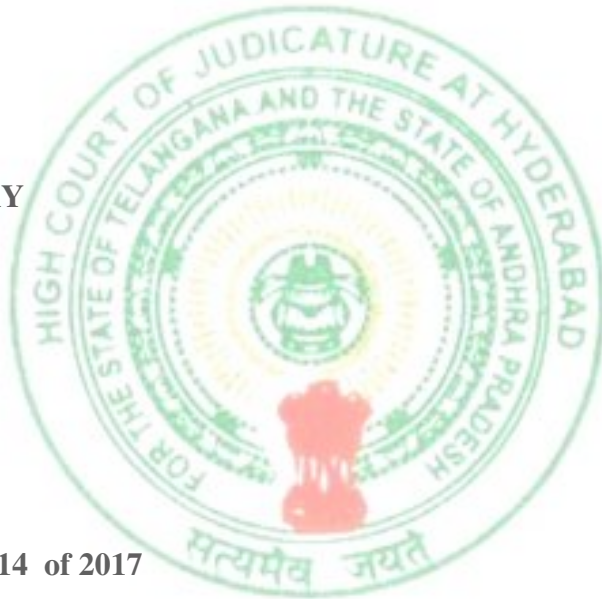
TKK

HIGH COURT

DR.SA.J

DT.11-12-2017.

**ANTICIPATORY
BAIL ORDER**



CRL.P.No. 11714 of 2017

**RELEASE THE PETITIONERS
ON BAIL IN THE EVENT OF
THEIR ARREST.**

**DRAFTED BY TKK
DT.13-12-2017.**

HIGH COURT

DR.SA.J

DT.11-12-2017.



**ANTICIPATORY
BAIL ORDER**

CRL.P.No. 11714 of 2017

**RELEASE THE PETITIOENRS
ON BAIL IN THE EVENT
OF THEIR ARREST.**