

**HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

THURSDAY, THE FIRST DAY OF FEBRUARY,
TWO THOUSAND AND EIGHTEEN
: PRESENT:

THE HON'BLE SMT JUSTICE **T.RAJANI**

CRIMINAL PETITION Nos. 748, 749 & 752 of 2018

Crl.P.No. 748 of 2018:

Between:

1. Lanka Arjuna Rao @ Arjun, S/o. Vijaya Babu
2. Chittineni Sudhakar, S/o. Sambaiah
3. Guntupalli Siva Teja @ Kanna, S/o. Ranga Rao
4. Marella Venkata Naveen @ Naveen, S/o. Nageswara Rao

Petitioners

(Accused 21 to 24 in Cr.No.1/2018
of Prathipadu P.S., Guntur Urban Dist)

AND

1. State of A.P., through Deputy Superintendent of Police, SC and ST Cell, Guntur Urban District, rep. by its Public Prosecutor, High Court at Hyderabad and for the State of Telangana and the State of A.P.
2. Jonnalagadda Prakasam @ J.Prakasam, S/o .J.Bosaiah, Occ: Cultivation, R/o. Gottipadu Village, Prathipadu Mandal, Guntur District.

Respondents

Petition under Sections 437 & 439 of Cr.P.C. praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to direct the release of the petitioners on bail pending investigation, enquiry and trial into Crime No. 1 of 2018 on the file of Prathipadu Police Station, Guntur Urban District.

Crl.P.No. 749 of 2018:

Between:

1. Guntupalli Nagarjuna, S/o. Venkata Krishna Rao
2. Ganesham Ramalingeswara Rao, S/o. Suresh

Petitioners

(Accused 25 & 26 in Cr.No.1/2018
of Prathipadu P.S., Guntur Urban Dist)

AND

1. State of A.P., through Deputy Superintendent of Police, SC and ST Cell, Guntur Urban District, rep. by its Public Prosecutor, High Court at Hyderabad and for the State of Telangana and the State of A.P.
3. Jonnalagadda Prakasam @ J.Prakasam, S/o .J.Bosaiah, Occ: Cultivation, R/o. Gottipadu Village, Prathipadu Mandal, Guntur District.

Respondents

Petition under Sections 437 & 439 of Cr.P.C. praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to direct the release of the petitioners on bail pending investigation, enquiry and trial into Crime No. 1 of 2018 on the file of Prathipadu Police Station, Guntur Urban District.

Crl.P.No. 752 of 2018:

Between:

1. Kundeti Venkateswara Rao, S/o. Sambasiva Rao
2. Nimmagadda Srinivasa Rao, S/o. Lakshmaiah

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3. Gutta Siva Rama Krishna, S/o. Amaraiah
4. Nimmagada Srinivasu @ Vasu, S/o. Veera Rao

Petitioners

(Accused 17 to 20 in Cr.No.1/2018
of Prathipadu P.S., Guntur Urban Dist)

AND

1. State of A.P., through Deputy Superintendent of Police, SC and ST Cell, Guntur Urban District, rep. by its Public Prosecutor, High Court at Hyderabad and for the State of Telangana and the State of A.P.
4. Jonnalagadda Prakasam @ J.Prakasam, S/o .J.Bosaiah, Occ: Cultivation, R/o. Gottipadu Village, Prathipadu Mandal, Guntur District.

Respondents

Petition under Sections 437 & 439 of Cr.P.C. praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to direct the release of the petitioners on bail pending investigation, enquiry and trial into Crime No. 1 of 2018 on the file of Prathipadu Police Station, Guntur Urban District.

These Petitions coming on for hearing, upon perusing the petition and the grounds filed herein and upon hearing the arguments of Sri Bachina Hanumantha Rao, Advocate for the Petitioners in all the Petitions, the Public Prosecutor (AP) for the Respondent No.1 in all the Petitions and of Sri Ch.Vidya Sagar, Advocate for the Respondent No.2 in all the Petitions, the Court made the following

ORDER:

“ These three Criminal Petitions are filed seeking for grant of bail to the petitioners, who are accused Nos.21 to 24 in CrI.P.No.748 of 2018, accused Nos.25 and 26 in CrI.P.No.749 of 2018 and accused Nos.17 to 20 in CrI.P.No.752 of 2018 respectively, in Crime No.1 of 2018 of Prathipadu Police Station, Guntur Urban District. The offences alleged are under Sections 341, 324, 143 and 506 read with Section 34 of the Indian Penal Code (IPC) and under Section 3(1)(r)(s) of the SCs & STs (Prevention of Atrocities) Act.

Heard the learned counsel for the petitioners, learned Public Prosecutor appearing for the respondent-State, learned counsel for the second respondent and perused the record.

The case of the prosecution, as per the report given by complainant, is that on 31.12.2017 at about 11 pm when the complainant, along with one other was going to purchase candles, people belonging to Kamma community beat and abused them touching their caste name and the scuffle was pacified by police personnel and the victims were sent to their vicinity. On 01.01.2018, the petitioners, along with some others, armed with iron rods, beer bottles, axes and other deadly weapons, by abusing touching their caste name, loudly threatened that the incidents of Tsundur and Karemchedu will repeat against mala people and attempted to kill the residents of Malapalle. The injured were shifted to Government General Hospital, Guntur.

Counsel for the petitioners, in the light of the said report, contends that though there are several names mentioned in the report, the names of these petitioners are not mentioned.

But the nature of the incident explains it. It is possible that the names of the petitioners might not have been mentioned, because it is a mob attack and however, while mentioning the names of some of the culprits, it was stated that there are some others along with them. But the counsel for the petitioners draws the attention of this Court to the remand report wherein the background incidents were also mentioned. It appears that on 31.12.2017 at about 12 mid night, people of SC community, including the second respondent, were in enjoyment mood, in view of the new year and then when one Jonnaladda Charan Babu and Battula Naveen were going to Prathipadu on motor cycle at high speed, they fell down accidentally and in that process they hit two women. Later it appears that the same was reported in the SC colony and the residents of SC colony went to the house of G.Sambasiva Rao and picked up a quarrel with them. Later, the police intervened. Keeping that in mind, on 01.01.2018 at about 11 am when L.W.7 was returning home, the accused, who are members of upper caste, stopped him and abused him in filthy language and on the same day when L.W.6 was going, he was threatened with dire consequences and his motor cycle was taken away. L.W.6 informed the same to his relatives. In consequence to the above series of incidents occurred on 31.12.2017 and 01.01.2018, both the groups gathered near the Society and quarrelled with each other. The accused, who belong to upper caste, armed with deadly weapons, attacked the residents of the SC colony and caused grievous injuries.

Counsel for the second respondent submits that bias of the police is evident from the fact that in spite of the nature of the attack clearly constituting an offence under Section 307 IPC as there was preparation to attack the SC community people which reveals intention to commit murder, did not register the case for the offence under Section 307 IPC. It was also argued that in order to protect the accused from facing trial for the offence corresponding to Section 307 IPC, under the SCs & STs (Prevention of Atrocities) Act, inclusion of Section 307 IPC has not been done, as the offence under SCs & STs (Prevention of Atrocities) Act carries imprisonment for life. He also submits that the prime accused in this case are not arrested and the police, without arresting the prime accused, A-1 to A-16, showed the arrest of these petitioners, to show progress in the investigation. He further submits that these petitioners have themselves surrendered before the police and contends that, that would imply that the petitioners are involved in the crime.

The remand report, no doubt, shows that the petitioners surrendered themselves. But the counsel for the petitioners submits that due to harassment that was levelled against the women folk of the accused, they had to surrender. In answer to that, the counsel for the second respondent submits that the petitioners were also identified by the *de facto* complainant when they went to surrender. The remand report reflects the same, but in the report given by the *de facto* complainant, he does not say that he can identify the persons who were present along with the persons, whose names are mentioned in the remand report.

There can be no doubt that the offence was committed in a gruesome and atrocious manner. Learned Public Prosecutor submits that there is still bandobast in the said village and there is likelihood of law and order getting disturbed if the petitioners are allowed to enter the village. But the gravity of the offence or otherwise should not prejudice this Court, when sufficient doubtful circumstances appear from the case of the prosecution itself with regard to involvement of these petitioners. In the first place, the submission of the second respondent that the prime accused were not arrested and that these accused, who are not termed to be the prime accused were arrested raised a doubt that to show some progress in the investigation, these people have been arrested. Further, the submission made by the counsel for the petitioners that the petitioners were forced to go and surrender because of the harassment that their women folk were facing in the hands of the police also appears to be cogent, as surrender was on 08.01.2018 while the incident occurred on 31.12.2017. That apart, when prime accused could avoid arrest, these petitioners, who were executing the same idea, as that of the other accused, could have also avoided arrest, with the help of those accused and the police, who are alleged to be helping the accused and are partial towards them.

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Hence, in the above circumstances, this Court opines that the petitioners would be entitled for bail. But, however, considering the precarious circumstances that are reported to be prevailing in the village, certain conditions are to be imposed.

In the result, the three Criminal Petitions are allowed and the petitioners are directed to be enlarged on bail, on condition of each of their executing a personal bond for a sum of Rs.40,000/- (Rupees forty thousand only) with two sureties for a like sum each to the satisfaction of the VI Additional Junior Civil Judge, Guntur. The petitioners shall stay in Guntur where they will make their appearance before the Deputy Superintendent of Police, SC & ST Cell-I, Guntur Urban District everyday, between 10 am and 2 pm. The petitioners shall not enter Prathipadu Village till further orders. Miscellaneous petitions, if any, pending shall stand closed.”

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

To

1. The Special Sessions Judge-cum-IV Additional Sessions Judge, Guntur.
2. The VI Additional Junior Civil Judge, Guntur.
3. The Superintendent, District Jail, Guntur.
4. The Deputy Superintendent of Police, SC and ST Cell, Guntur Urban District.
5. Two CCs to the Public Prosecutor (AP), High Court, Hyd(OUT)
6. One CC to Sri Bachina Hanumantha Rao, Advocate(OPUC)
7. One spare copy.

SAH

HIGH COURT

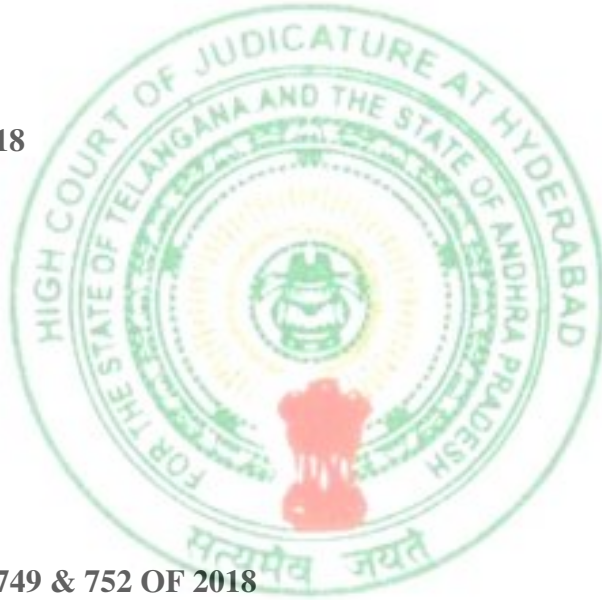
TRJ

DATED: 01-02-2018

ORDER

CRL.P.NOS. 748, 749 & 752 OF 2018

BAIL GRANTED



**DRAFTED BY: SAH
APPROVED BY:
DRAFTED ON: 02-02-2018**

HIGH COURT

TRJ



DATED: 01-02-2018

ORDER

CRL.P.NOS. 748, 749 & 752 OF 2018

BAIL GRANTED