

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.2123 OF 2018

ORDER:

This criminal petition is filed under Sections 437 and 439 Cr.P.C to enlarge the petitioner/A2 on bail in connection with Crime No.357 of 2017 of III Town Police Station, Visakhapatnam, registered for the offences punishable under Sections 120-B, 302, 397, 449, 341, 352 and 307 read with 34 IPC.

The case of the prosecution in brief is that on 17.07.2017, the respondent received written complaint from Jyothi Dhamija, who made a statement that at about 16.00 hours, four unknown male persons trespassed in to her house at Flat No.F1 and F6, 6th floor, Sea Surf Apartments, Opp. Palm Beach Hotel, Visakhapatnam enquired about her husband and later they threatened at the point of guns and knife attacked her, her husband and driver and caused grievous injuries and demanded to surrender cash and gold, if not threatened to kill entire family members and one person wearing white shirt pointed out a gun against the head of her daughter and forcibly taken her husband into the office room and inflicted stab injuries and fled away. After registration of crime, the police took up investigation and found that the petitioner is one among the four persons.

Learned counsel for the petitioner contended that the petitioner is working as Maintenance Manager in Sea Surf Apartments and that absolutely there is no material against him, but enroped with the grave offences and that nothing was recovered from his possession and that the Sessions Judge did not consider the material in proper perspective and dismissed the petition filed before it, requested to enlarge the petitioner on bail.

Learned Additional Public Prosecutor opposed the petition in view of the seriousness of the crime.

As seen from the allegations made in the report, the petitioner is working as Maintenance Manager in the apartment and that the deceased and his family members occupied the above said flats and that the deceased and the petitioner are known to each other and that as per the complaint four unknown persons trespassed into the house and caused injuries on the body of the husband of the complainant, who succumbed to the injuries, that as on today, the investigation is not yet completed, only 19 witnesses were examined, that apart, there is nothing in the report lodged by the complainant with the police about the participation of the petitioner in this crime or attributing any specific overt acts. No doubt, the contention of the petitioner that there were no specific overt acts attributed in the FIR, but FIR is only information to the police about the commission of cognizable offence and it need not contain minute details. Therefore, based on complaint lodged with the police, it is difficult to conclude that the petitioner did commit no offence. However, the statement recorded by the police during investigation under Section 161 Cr.P.C, is relevant under Section 172(2) Cr.P.C. for limited purpose and that the said statement cannot be taken as evidence in any enquiry or trial. In case the petitioner enlarged on bail, there is every possibility of interference with the investigation. As such I do not find any ground to grant bail to the petitioner.

In the result, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

02.04.2018
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