

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 3364 OF 2018

ORDER:

This petition is filed, under Sections 437 and 439 of the Code of Criminal Procedure, 1973, for grant of bail to the petitioners-accused Nos. 4 to 7 in Crime No. 850 of 2017 of Ramachandrapuram Police Station, Cyberabad, registered for the offences punishable under Sections 302, 323 and 342 read with Section 34 of the Indian Penal Code (for short, 'I.P.C.').

2. The case of the prosecution is that one Ashamgari Chandrashekar-the deceased was studying II year B.Com., in Prathibha College, Kukatpally, while accused No. 8, the daughter of accused No. 1, was studying II year Degree in Pragathi Degree College, Chandanagar, and they both belong to one community; that accused No. 8 and the deceased used to leave the village in RTC bus via Patancheru to their respective destinations; that during that period, the deceased used to follow accused No. 8 and disclosed his love and forced the latter to love and marry him, else he would pour acid; that due to the unbearable torture of the deceased, accused No. 8 informed the same to accused No. 1, who in turn informed the same to accused Nos. 2 to 7 who are his relatives; that all they conspired together and decided to kill the deceased; that in pursuance of their plan, on 28-10-2017 at morning hours, accused No. 2 rushed to Chandanagar, picked up accused No. 8 and the deceased and brought them near Beerappa Temple on the plea to have discussion about their marriage; that meanwhile,

accused Nos. 1 and 3 to 7 rushed to Beerappa Temple Tellapur, and assaulted the deceased with hands and legs; that accused No. 1 contacted Jangaiah-the father of the deceased over phone and asked him to come to the scene, else they would murder his son; that immediately, Jangaiah came to the scene and before him also, they assaulted the deceased and when Jangaiah interfered, he was too assaulted; that when Jangaiah fell unconscious, they, except accused Nos. 5, 6 and 8 who covered Jangaiah, chased the deceased and committed his murder and that later, they kept the body on railway track having observed that train was coming from Lingampally and the train ran over the body, as a result the body was transmitted into two halves at the level of pelvis.

3. Learned counsel for the petitioners submits that entire investigation is completed and detaining the petitioners still in jail would not serve any purpose while pleading their innocence and that petitioner No. 4-accused No. 7 is a student appearing for TSPSC examinations for employment.

4. Learned Public Prosecutor opposed the petition on the ground that the manner in which the deceased was murdered is a matter of serious concern and there is every possibility of the petitioners interfering with the investigation if they are released on bail and there is any amount of doubt to influence the witnesses proposed to be examined during trial.

5. As seen from the material on record, it is a clear case of love affair between accused No. 8 and the deceased which resulted in causing the death of the latter by the parents and

relatives of the former. The manner in which the incident took place indicates the clear intention of the petitioners to kill the deceased. The offences allegedly committed by the petitioners along with accused Nos. 1 to 3 and 8 are heinous and at this stage, it is difficult to exercise power under Sections 437 and 439 of Cr.P.C.

6. In *Lokesh Singh Vs. State of U.P. and another*¹, the Apex Court held that

"While dealing with an application for bail, there is a need to indicate the order, reasons for prima facie concluding why bail was being granted particularly where as accused was charged of having committed a serious offence. It is necessary for the Courts dealing with application for bail to consider among other circumstances, the following factors also before granting bail, they are:

- 1. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence;*
- 2. Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant; and*
- 3. Prima facie satisfaction of the Court in support of the charge.*

Though a conclusive finding in regard to the points urged by the parties is not expected of the Court considering the bail application, yet giving reasons is different from discussing merits or demerits. As noted above, at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merits of the case has not to be undertaken. But that does not mean that while granting bail some reasons for prima facie concluding why bail was being granted is not required to be indicated."

¹ AIR 2009 SC 94

In *State through C.B.I. Vs. Amarmani Tripathi with State of U.P. through C.B.I. Vs. Madhumani Tripathi*², the Apex Court laid down few guidelines to exercise jurisdiction under Sections 437 and 439 of Cr.P.C. and they are as follows:

- "(i) *Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
- (ii) *Nature and gravity of the charge;*
- (iii) *Severity of the punishment in the event of conviction;*
- (iv) *Danger of accused absconding or fleeing, if released on bail;*
- (v) *Character, behaviour, means, position and standing of the accused;*
- (vi) *Likelihood of the offence being repeated;*
- (vii) *Reasonable apprehension of the witnesses being tampered with; and*
- (viii) *Danger, of course of justice being thwarted by grant of bail.*

While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused."

Applying the principles laid down in the above two judgments to the present facts of the case and considering the accusation, severity of punishment in case of conviction and the manner in which the deceased was murdered, this Court opines

² AIR 2005 SC 3490

that the petitioners are disentitled to claim bail under Sections 437 and 439 of Cr.P.C.

7. Yet, another contention of learned counsel for the petitioners is that petitioner No. 4-accused No. 7 is a student and he is preparing for competitive examinations being conducted by TSPSC but that itself is not a ground to enlarge him on bail since the deceased is also a student studying second year degree by the date of his murder.

8. Having regard to the facts and circumstances of the case and the matters to be considered in an application for bail as held by the Apex Court in the above two judgments, I find no ground to enlarge the petitioners on bail at this stage and the criminal petition is liable to be dismissed.

9. The criminal petition is accordingly dismissed. Pending miscellaneous petitions if any shall stand dismissed in consequence.



M.SATYANARAYANA MURTHY, J.

29-03-2018.
JSK