

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.3938 OF 2018

ORDER:

This criminal petition is filed by the petitioner/accused under Section 438 Cr.P.C to direct the Station House Officer, Metpalli Police Station, Jagtial District, apprehending his arrest in connection with Crime No.04 of 2018 for the offence punishable under Section 307 r/w 34 IPC.

It is the case of prosecution that, on 03.01.2018 at 18:30 hrs, the petitioner/accused along with two unidentified persons armed with iron rods and sticks, attempted to kill the complainant and his brother by beating with iron rods and sticks and thereby, caused bleeding injuries on both hands and legs by abusing in filthy language and uttering the words 'kill him'. Thus, the petitioner allegedly committed an attempt to murder the defacto complainant and caused grievous injuries.

The main contention of this petitioner is that, the petitioner also received grave injuries in the same incident and due to previous enmity in which the petitioner is acquitted i.e. C.C.No.451 of 2010 vide calendar and judgment dated 15.11.2017 and the petitioner was falsely implicated in the case and prayed to grant pre-arrest bail to this petition.

During hearing, learned counsel for the petitioner mainly contended that, when the petitioner sustained bleeding injuries on the vital parts of the body, the police registered a case against the petitioner in Crime No.04 of 2018 for the offence punishable under Section 307 r/w 34 IPC, whereas, the petitioner did not cause any

such grave injuries on the vital parts of the body of the defacto complainant and police registered Crime No.04 of 2018 for the offence punishable under Section 307 r/w 34 IPC, obviously for different reasons known to them. Therefore, it is a false case registered against the petitioner and he pleaded ignorance of commission of the offences and prayed to grant pre-arrest bail.

Learned Public Prosecutor opposed the petition on the ground that the investigation is not yet completed and it is a serious offence committed by the petitioner, punishable under Section 307 r/w 34 IPC and prayed for dismissal of the petition.

As seen from the allegations made in the complaint, this petitioner along with two unidentified persons entered into the house of the defacto complainant armed with iron rods and sticks and caused grievous bodily injuries, while saying 'kill him'. Causing such injuries on the vital parts of the body with iron rods and sticks, by entering into the house itself is sufficient to infer that they had *prima facie* intention to kill the defacto complainant. That too, the investigation is not yet completed and the petitioner having lost two applications before the Sessions Judge, filed the present petition. Hence, based on the complaint lodged by the defacto complainant, crime is registered for the offence punishable under Section 307 r/w 34 IPC, enmity or motive are not grounds to grant pre-arrest bail to the petitioner, since motive of the petitioner is a double edged weapon either to foist a false case or commit such an offence by either of the parties and it is not a substantive piece of evidence. Therefore, based on the alleged motive, it is difficult to conclude at this stage that this petitioner

did commit no offence *prima facie* to grant pre-arrest bail to this petitioner. Hence, I find no ground to grant pre-arrest bail to this petitioner.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:10.04.2018

SP

