

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7202 of 2018

ORDER :

The petitioner is A.3, among four accused, of Crime No.159 of 2018 of Gudur I town Police Station, Sri Potti Sri Ramulu Nellore District, registered for the offences punishable under Sections 120-b and 302 read with 201 IPC. Originally on 21.04.2018 from the report of Veeraiah-brother of the deceased the crime supra was registered under Section 174 Cr.P.C, it reads, the deceased appears committed suicide by consuming pesticide poison and died in the Blue Diamond Lodge, Room No.208 of Gudur Town. Within one week later i.e., on 28.04.2018 there is another report of the wife of the deceased, by name Smt.Shanti, saying there was phone conversation between the deceased and his wife on 20.04.2018 at about 9.30 p.m. and she could not give proper information because of she was in grief and sorrow from the death of her husband suddenly and when she recollected later after gaining some normalcy and from the telephone of her husband besides her husband there is also a male voice and that male voice her husband stated that one car driver and her husband stated that the paddy businessman promised to pay Rs.40 lakhs by next day and he wants to come with that money next day and there from as said paddy businessman is Muniraj (A.1), she suspects that said A.1 or anybody sent by him into the lodge might killed her husband to avoid payment of huge amount to her husband which is payable in turn by her husband to the several ryths with a pre-plan and to screen evidence,

they also secreted the Vivo Company Cell Phone of her husband including some way-bills, which were with her husband that also not found in the room where he died. Though it is the contention that at best tantamounts to a statement during investigation under Section 161 Cr.P.C., it is now immaterial whether it is a statement or independent F.I.R., leave about when the second F.I.R. admissible from the settled propositions for a matter during trial and not for the bail, as the case mostly rested on circumstantial evidence. However, crucially from the remand report from the arrest of A.1 to A.4, who surrendered before the V.R.O. and made a disclosure statement, which is an extra judicial about their vicarious plan with conspiracy to eliminate the deceased by using the services of A.2, driver of A.1, for huge amount due to the deceased by A.1, A.3 and A.4, their plan to kill by use of Cyanide to be mixed in any cool drink while her husband was in the lodge and it is pursuant to their plan to avoid several nearly one crore rupees to the deceased by accused persons, it was operated through A.2, who mixed Cyanide in the Thums Up and that was made to consume by the deceased and A.2 some time before taken the deceased to a bar where they consumed liquor even in operation of the said notorious plan.

2. The contention of the counsel for the petitioner/A.3 is that, but for the so-called contention of A.2 if at all of any privy between accused persons in implementation of the so-called notorious plan to eliminate the deceased by use of cyanide to be mixed with any eatable

or cool drink that was implemented it shows A.1 and A.2 went and purchased the Cyanide and A.2 is the driver of A.1 and there is nothing even other than that to show deceased, A.3 and A.4 fallen due separately any amount to deceased and thereby, as he is in judicial custody since 11.05.2018, entitled to the concession of regular bail.

3. Learned Public Prosecutor opposed the bail application saying it is a brutal killing for gain with pre-meditation and preplan notoriously and petitioner is not entitled to the concession of bail and the investigation mainly depending upon the circumstances witnesses besides the confession, leave about its value to decide in trial, in crucial stage and if he is allowed to come of bail, he will tamper with and interfere with the investigation, it will not go on smooth lines, hence sought for dismissal.

4. The learned VII Additional Sessions Judge, Gudur, dismissed the bail application of the petitioner in Crl.M.P.No.1141 of 2018 on 26.06.2018 with the observation that from the perusal of the case diary it discloses the conspiracy between all the accused persons and there is a prima facie accusation of the brutal offence in killing the deceased out of the implementation of conspiracy, thereby from the investigation pending not entitled to the concession of bail.

5. No doubt, it is the duty of the Court to balance the personal liberty with the propensity of the crime. However, from the material, the manner in which the crime perpetrated, the petitioner even at this

stage not entitled to the concession of bail when the investigation is pending.

6. Accordingly, the criminal petition is dismissed. However, it is not a bar for any changed circumstances in future to renew the request.

Miscellaneous petitions pending, if any, shall stand closed.

19th July 2018.

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Dr. B. SIVA SANKARA RAO, J

