

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO
CRIMINAL PETITION Nos.8210 and 8223 of 2018

COMMON ORDER:

CrI.P.No.8210 of 2018 is filed by the petitioner/ A4 by name Keshav Rao under Section 438 Cr.P.C., for anticipatory bail and CrI.P.No.8223 of 2018 is filed by the petitioners/ A1 to A3 under Sections 439 and 401 Cr.P.C, seeking enlargement on bail in Crime No.119 of 2018 dated 15.06.2018 on the file of Utnoor Police Station, Adilabad District, registered originally for the offence punishable under Section 304-A I.P.C.

2. The above crime was registered on the report of the de facto complainant-K.Neelabai, no other than wife of the deceased stating that on 15.06.2018 in the morning at about 9.30 a.m., her husband by name Prabhakar, who is a social worker, after his lunch, on some work, went to ITDA office, Utnoor, on his Pulsar motor cycle bearing Chasis No.MD 2A 11 CYQJWA 36176 and Engine No.DHYWJA 39118 and while he was so proceeding near Andoli cross roads, some Tavera vehicle bearing No.MH 26V 4431 due to rash and negligent driving of the driver, who was proceeding towards Indravelli side dashed from behind, as a result, her husband fell down from the bike and sustained injuries and died. She received a phone call and went to Utnoor Government Hospital, where dead body lying. Hence to take action.

3. In the course of investigation, the police came to know from the investigation material of it is a brutal murder with a nefarious plan and privy among four accused to eliminate the deceased, thereby, altered the crime by filing alteration memo for the offences punishable under Sections 120B and 302 IPC from the arrest of A1 to A3 as per the said remand report dated 12.07.2018 mentioning by then including from the

statement of the de facto complainant/wife of the deceased further recorded speaks of she is suspecting about the mother of her husband and there were confession and disclosure statements of A1 to A3 of they arranged a hired vehicle with pre-plan along with A4 to eliminate them. The remand report shows by then 14 witnesses examined including the panch witnesses to the confession and enclosed scene observation report and from the Post Mortem Report of the Doctor besides the investigating officers 1 and 2, who registered crime and affected the arrest of A1 to A3 in remanding them to the judicial custody. The petitioner went unsuccessful earlier in seeking regular bail in CrI.MP.No.735 of 2018 on 27.07.2018 before the Principal District and Sessions Judge, Adilabad.

4. Heard learned counsel for the petitioners and learned Additional Public Prosecutor representing the State and perused the bail application averments, FIR, remand report, Case Diary and the earlier dismissal order referred supra.

5. The contention of the learned counsel for the petitioners is that it is a false implication; that the petitioners are innocent and a case of road accident particularly to convert from any differences or at the instance of some persons, who are enemical to the petitioners to rope them in the nasty crime for no right of them even crime registered on 15.06.2018 of the alleged occurrence as date including from the so called report of A1 to A3, dated 12.07.2018, there is no worth material other than the alleged so called confession by A2 and A3 to implicate them that too the statement of the de facto complainant, wife of the deceased originally mentioned as accident even in the course of investigation stated only suspicion and no basis even collected, thereby, they cannot be kept in judicial custody having been in jail being bread

winners to their family since 12.07.2018. Hence, to consider and so far as A4 also for entitlement of anticipatory bail.

6. The learned Public Prosecutor opposed the bail application saying investigation is at nasal stage, if the petitioners are allowed to go out, they interfere with the investigation and it is difficult for the police to elicit the truth of the occurrence, thereby, they are not entitled to the concession of bail.

7. A perusal of the Case Diary as on the date shows further investigation is still pending. There are ante-mortem external injuries on the person of the deceased. Undisputedly, he was knocked down, while proceeding on his bike by Tavera vehicle from the investigation so far collected, even from placing reliance on the so called confession of the accused, but for, to say it is the arranged vehicle in question in creating as if an accidental death of brutal pre-plan deliberate murder. Once such is the case and from the de facto complainant's version also of the deceased was complaining and filing petitions including fighting against the accused. Those aspects required further investigation. This Court feels that it is not just to grant concession of bail though the so called confessions of the accused otherwise not admissible in evidence. It is premature to go into that aspect, when it is required and considerable for further investigation.

8. Having regard to the above, the Criminal Petitions are dismissed without prejudice to the right to move fresh bail applications in future.

9. Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 10.08.2018

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