

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.8433 OF 2018

ORDER:

The petitioners are A1 & A2 in Crime No.533 of 2017 on the file of Ajith Singh Nagar Police Station, Vijayawada, Krishna District wherein after investigation the police filed charge sheet. Said crime is registered for the offences punishable under Sections 302 & 379 IPC covered by P.R.C. No.35 of 2018 and on committal, cognizance taken by the Court of Sessions allotting S.C.No.205 of 2018 for the offences supra against the petitioners-A1 & A2 supra.

2. In the present bail application, it is the contention that after investigation the charge sheet is filed and the Sessions Case is numbered and the petitioners are languishing in jail from 18.12.2017; and from perusal of the police final report there is no worth material much less to keep them in unnecessary incarnation and they are entitled to the concession of bail to balance the personal liberty with propensity of crime. It is also the contention that there are no eye witnesses to the occurrence and the case rested on circumstantial evidence including the alleged confession while they were seen moving near the scene of offence with blood stained clothes. It is also the contention that to save the real culprits these petitioners are implicated for statistical purpose.

3. Heard the learned counsel for petitioners and the learned Special Assistant Public Prosecutor representing the State of Andhra Pradesh in opposing the same and perused the bail application averments.

4. The learned Special Assistant Public Prosecutor opposed the bail application saying it is not only the present crime and the petitioners are also involved in five or more crimes viz., (i) Crime No.529 of 2017, registered for the offence punishable under Section 392 IPC covered by S.C.No.1657 of 2017 (ii) Crime No.534 of 2017, registered for the offences punishable under Sections 307 & 394 IPC covered by P.R.C. No.37 of 2018 (iii) Crime No.176 of 2016, registered for the offences punishable under Sections 341, 323, 506 IPC (iv) Crime No.296 of 2017, registered for the offences punishable under Sections 427, 392 r/w 34 IPC and (v) A2 involved in Crime No.137 of 2017, registered for the offence punishable under Section 379 IPC, all are within the Commissionerate of Police, Vijayawada, and they are hardcore criminals being the habitual offenders in committing offences like Dacoity or Robbery and are not entitled to the concession of bail in the larger interest of the society, which will not outweigh their personal liberty. The learned Special Assistant Public Prosecutor further contended that once the learned Committal Magistrate committed the case and the Sessions Judge taken cognizance in allotting Sessions Case number from the *prima facie* accusation, it cannot be contended of there is no sustainable accusation much less to go into the merits of entitlement to bail on merits. He further contended that the witnesses are not mere circumstantial witnesses or eye witnesses and there are umpty of circumstances in addition to that to link them to the crime to establish and it is premature to discuss for bail application, but for dismissal.

5. A perusal of the record not only without need of going into merits from the Sessions Case number already allotted and there is likelihood of the petitioners' filing application for discharge, if any, under Section 228 Cr.P.C. and from their involvement in several other crimes, they are not entitled to the concession of bail, but for to direct the learned Sessions Judge for expeditious trial as per the spirit of Section 309 Cr.P.C. preferably within five to six months subject to other priorities.

Accordingly, this Criminal Petition is dismissed.

16.08.2018
MVA

Dr. B. SIVA SANKARA RAO, J

