

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.9743 of 2018

ORDER:

The petitioner, who is A1 filed the present application under Sections 437 and 439 Cr.P.C. seeking enlargement on bail in Crime No.177 of 2017 on the file of Dhone Rural Police Station, Kurnool District, registered for the offences punishable under Sections 365, 324, 395, 397 r/ w 120(B) I.P.C. and Section 25(1)(B)(b) of the Indian Arms Act, 1959.

2. Heard learned counsel for the petitioner and learned Public Prosecutor representing the State.

3. The alleged occurrence taken place after the mid night of 12.09.2017 in registration of the crime on 14.09.2017. The petitioner is A1 as per the police investigation and final report covered by charge sheet dated 22.01.2018, A2-Bhim Singh died, A3 and A5 were arrested and later enlarged on bail and A4 is shown in abscondance. It is mentioned at last but one para of the charge sheet of soon after the apprehension of A4 police will file Additional charge sheet against A4. As can be seen from the array in the charge sheet and its contents, the accused are residents of Rajasthan State.

4. The alleged occurrence is a Highway dacoity and looting by attacking, an amount of Rs.5.50 crores i.e., while carrying in Scorpio vehicle bearing registration No.AP 09 CW 0880 to

handover to one Akshay Rajendra Lunawat at Ahmednagar at Bangalore, while taking from office of LWs.1 to 3 at Banjara Hills. It shows on the alleged occurrence after the intervening night of 12.09.2017 at about 0.30 hours, LWs.1 and 2 stopped their vehicle and had tea near Pullur Toll Plaza and later while proceeding towards Bangalore, it is about 1.30 a.m., A1 and A3 along with A2 since died and A4 followed the car of LWs.1 and 2 (Deep Karan Chobisa and Aravind Singh) with their cars and intercepted their car on the road and armed with rods and sticks alighted from the cause and beat indiscriminately the persons in the car and dragged out of their Scorpio vehicle and pushed them into two Swift Dzire cars adjacent to Scorpio vehicle and forcibly while trying to take away in their car, LW.1 when tried to escape, A2 pointed out the gun by threatening to do away and remaining accused put LW.1's hands to his back and tied his hands and mouth with tape and made to sit also LW2 in their Swift Dzire cars forcibly and also tied his hands and taped the mouth and about 20 minutes later, while proceeding, they shifted LWs.1 and 2 supra in another Honda Mobillo car and after travelling for eight hours, they were left there and fled away with Honda Mobillo car and Maruti Swife Dzire, one of those cars herein bearing registration No.MH 12 NU 9444. They were left at the place displaying 153 KM Nagpur and they could contact

LW3-N.Nandlal Sdhpura of Banjara Hills over their phones on 13.09.2017 at 11 a.m. and informed the same and came over to Hyderabad by bus and when LW.3 cause searched through GPS of the Scorpio Vehicle location that was abandoned at Vengalampalli Water Tank, Obulapuram Board, within the jurisdiction of Dhone Rural Police Station, where occurrence took place.

5. As per the prosecution, there are disclosure statements and seizures. Pursuant to the disclosure as facts discovered, the learned committal Magistrate taken cognizance from the final report and the Sessions Case No.176 of 2018 is pending and it is the submission that charges are already framed and A1, A3 and A5 are facing trial for schedule yet to be given.

6. Various contentions in the present application for bail sought by A1 are that A3 and A5 were already enlarged on bail; that he is a permanent resident of Rajasthan and doing business and staying at Hyderabad with Aadhar card and business address with business registration at Hyderabad and never involved in the crime and falsely implicated and the remand report, arrest is nothing but bogus and he was taken custody about 10 or 15 days prior to that from Rajasthan State by intimation to local police of the apprehension and kept under unlawful confinement and created the so called confession and once such is the case, there is no material to

say that he is privy to the alleged crime and thereby entitled to the concession of bail as he is in judicial custody since 27.12.2017.

7. The learned Public Prosecutor opposed the bail application mainly on two grounds, one, is if the accused is allowed to the concession of bail, there is every likelihood of fleeing away and stalling the trial proceedings for A4 is still under abcondance could not be found leave about A2 died and the alleged encounter of A2 is false version to bring down the police to terms to save the other accused out of if possible. The second ground is that the petitioner is involved in two more similar crimes of dacoity or robbery and under Arms Act of one of Kalol Police Station, dated 12.07.2017 of Gujarat State and the other is Pune Rural Police Station, Maharashtra State, dated 11.09.2017 and the alleged occurrence in question is subsequent to this on 13.09.2017 early hours.

8. A perusal of the record shows from the prosecution material, Crime No.614 of 2017 of Yavat Police station of Pune Rural, Maharashtra State, registered for the offences punishable under Sections 394, 397, 341 r/w 34 IPC and Sections 3 and 27 of the Indian Arms Act on 11.09.2017 was for the vehicle bearing registration No.MH 12 NU 9244 was stolen. In fact, it was the Swift Dzire vehicle used in

commission of the present crime as per the charge sheet particularly from last but third page among other.

9. Taking into consideration of the above facts, this Court is not inclined to grant bail, though it is the duty of the Court to balance personal liberty, but for, to direct the learned Sessions Judge to conduct trial day to day as per the spirit of Section 309 Cr.P.C. by giving the trial schedule. The petitioner/ A1 is at liberty to move a fresh bail application, after four months in the event of trial could not be completed.

10. With the above directions and observations, the Criminal Petition is dismissed.

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



JUSTICE Dr. B.SIVA SANKARA RAO

Date: 19.09.2018
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