

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.11281 OF 2018

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C), is filed by the petitioners/accused Nos.3, 5 and 6, for grant of anticipatory bail in the event of their arrest in connection with Crime No.50 of 2018 of Karamchedu Police Station, Prakasam District, registered for the offences punishable under Sections 144, 148, 307 and 324 read with 149 IPC.

2. Heard learned counsel for the petitioners/accused Nos.3, 5 and 6, the learned Public Prosecutor appearing for the respondent-State and perused the record.

3. Learned counsel for the petitioners/accused Nos.3, 5 and 6 would contend that the *de facto* complainant and his family members attacked the petitioners and their family members at the first instance and in that process, these petitioners/accused Nos.3, 5 and 6 suffered injuries; that the petitioner/accused No.3 is an Engineering student, attending Semester examinations; that the allegations made in the First Information Report, dated 09.09.2018, are all false and ultimately prayed to allow the bail application.

4. Learned Additional Public Prosecutor opposed the grant of bail to the petitioners/accused Nos.3, 5 and 6 contending that there are serious allegations against these petitioners/accused Nos.3, 5 and 6; that altogether three persons suffered injuries and one of them suffered grievous injury; that there are specific allegations against these petitioners/accused Nos.3, 5 and 6 and ultimately prayed to dismiss the bail application.

5. Under these circumstances, the point of consideration is whether the petitioners/accused Nos.3, 5 and 6 can be enlarged on bail under Section 438 Cr.P.C?

6. There is specific mention in FIR No.50 of 2018, dated 09.09.2018, that these petitioners/accused Nos.3, 5 and 6 caused injuries to the *de facto* complainant and others on 08.09.2018. On the date of incident, the petitioners/accused Nos.3, 5 and 6 along with other accused persons formed into an unlawful assembly, holding axes and sticks, attacked the *de facto* complainant, beat him with axe and stick and caused injuries to him and two other persons. Immediately all the injured were shifted to Government Hospital, Chirala, for treatment.

7. In the course of submissions, it is brought to the notice of this Court that one of the victims suffered grievous injuries. The statement of *de facto* complainant was recorded by the police, wherein specific overt acts were mentioned against these petitioners/accused Nos.3, 5 and 6. There are specific overt acts against these petitioners/accused Nos.3, 5 and 6 and the allegations in the report constitute a *prima facie* case for the offences under Sections 144, 148, 307 and 324 read with 149 IPC. The allegations are specific and grave against these petitioners. Release of petitioners/accused Nos.3, 5 and 6 would hinder the investigation. There is also apprehension that these petitioners would indulge in threatening the witnesses. Therefore, it is not a fit case to allow the application under Section 438 Cr.P.C.

8. In view of submission made that the petitioner/accused No.3 is writing Semester examinations, the Station House Officer, Karamchedu Police Station, Prakasam District, shall refrain from arresting him for a period of three (3) weeks from today.

9. With the above direction, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

NOVEMBER 14, 2018
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Date: 14.11.2018

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