

THE HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.803 of 2019

ORDER :

The petitioners are A.2 and A.3 among four or more accused of Crime No.141 of 2018, dated 24.08.2018, of Dharmpauri Police Station, Jagtial District, registered for the offence punishable under Section 307 read with 34 IPC.

2. The contentions in the anticipatory bail application are that the entire allegations are cooked up and false and the petitioners are innocent and there is no any participation in the attack, much less intention to kill. The allegations are only against A.1 at best and there are land disputes between the *de facto* complainant and K. Babu Rao (A.1) the respective families and the petitioners are roped only with an intention to implicate with vengeance and the allegation that the petitioners beat with sticks and stones and except that there are no other specific *overt acts* and the learned II Additional Sessions Judge, Karimnagar at Jagtial, in CrI.M.P.No.905 of 2018 went wrong in dismissal of the anticipatory bail application without even assigning reasons and thereby they are entitled to the concession of anticipatory bail.

3. Learned counsel for the petitioners reiterated the same in the course of hearing by drawn attention of the Court to the entire First Information Report by its reading.

4. The learned Public Prosecutor by referring to the First Information Report opposed the bail application saying the brutal

attack pre-planned outcome of a civil dispute, thereby they are not entitled to the concession of anticipatory bail.

5. Heard and perused the material on record.

6. From the very report, there are disputes for the past four years in relation to the house site and on 23.08.2018 at about 11.00 a.m. when Maruthi, younger son of the *de facto* complainant, was in the house and others not there, A.1 and others were starting to measure the property and when questioned by Maruthi they beat him and abused him and threatened to kill and left the place and Maruthi went to Perika Sangam village elders viz., Rajashekar and MPTC Mallesham and they called both not to altercate and they will settle, however on that night itself at about 10.15 p.m. the above accused persons i.e., Shivarathi Tirupati/A.4, and the other three persons i.e., K. Venkatesh, K. Babu Rao and K. Sujatha, who are A.2, A.1 and A.3 of whom the petitioners are A.2 and A3, came to their house and opposite to the house created a scene and when Maruthi questioned why they are creating a scene, they with the premeditation and pre-planned armed with weapons came there to do away of whom Babu Rao (A.1) hacked Maruthi on his head with axe and for the cries when Venkati/husband of the *de facto* complainant, went there, A.1 again hacked him with the axe and in the meantime the *de facto* complainant's elders son Srinivas went there, he was also hacked with axe by A.1 and A.2/1st petitioner beat them with stick and A.3/Sujatha, who is the 2nd petitioner, and A.4 pelted stones and also

beat with sticks and one G. Ilayaiah, who was passing through when tried to intervene was also beaten by them and they all fled away. Hence to take action.

7. The propensity of the crime and the manner in which perpetrated that too armed with deadly weapons and came in attack to the victims' house from accused persons from their abode itself shows that the petitioners are not entitled to the concession of anticipatory bail being shared the common intention and participated in the attack. Merely because they did not axe is not a ground to say that they did not share the common intention.

8. Having regard to the above, the criminal petition is dismissed.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

19th February 2019

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