

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No. 8192 of 2021

O R D E R:

This Criminal Petition under Sections 437 and 439 Cr.P.C. is filed by petitioner – Accused No.5 in Crime No. 195 of 2021 on the file of P.S. Golconda registered for the offences punishable under Sections 302, 120(B), 109 read with Section 34 IPC., seeking bail.

2. According to prosecution, on 29.07.2021, at about 17.00 hours, the de facto complainant lodged a complaint alleging that there are civil disputes between his mother Rayeesa Fatima (hereinafter be referred to as 'deceased') and accused persons. It is alleged that in connection with the said disputes, all the accused conspired together and with an intention to kill his mother, on 29.07.2021, at about 13.00 hours, his maternal uncle Arif Ali (Accused No.1) entered into their house bearing House No. 8-1-354/1 situated at Adams Colony, Tolichowki, Hyderabad and forcibly thrown the deceased, who fell on the floor of the kitchen, and brutally cut her throat with knife due to which she died on the spot and thereafter, Accused No.1 also threatened him and his younger brother with dire consequences.

3. Learned counsel for petitioner Sri Md. Ajmal Ahmed submits that in the entire complaint or in the charge-sheet, except stating that petitioner conspired with other accused and abetted the offence, no specific overt acts were attributed to her. Learned counsel submits that all the petitioners are inter-

related and civil litigation is pending between them. Further, learned counsel submits that though it is alleged that there is conspiracy, reading of the entire charge-sheet does not satisfy the ingredients of the offence under Section 120(B) IPC. He also submits that petitioner is a mother of five children, youngest being five-year-old, who require love and care of their mother. He further submits that petitioner was remanded to judicial custody on 31.07.2020 and from the last 117 days, she has been languishing in jail. He also submits that earlier bail application moved by petitioner was dismissed by the trial Court on the ground that investigation is pending and some more witnesses are to be examined and FSL report is awaited. As there is every possibility of pressurizing the witnesses and destruction of evidence, the Court below has dismissed the Petition. He submits that now entire investigation is completed and charge-sheet is also filed, hence, the case of petitioner may be considered for grant of bail.

4. On the other hand, learned counsel appearing for the de facto complainant submits that though the act was done by Accused No.1, all Accused 1 to 5 conspired together and committed brutal murder of the deceased. He submits that the said incident happened before her sons, who are minors. He also submits that in view of the serious allegations levelled against petitioner, if she is enlarged on bail, there is every likelihood that she may tamper with the evidence and threaten and influence the witnesses. The learned counsel further submits that as PRC is also numbered and trial is going to

commence, at this stage, petitioner is not entitled for bail. He has drawn the attention of the Court to the charge-sheet and the specific overt acts made against petitioner. He submits that petitioner, who conspired with the other accused, is equally responsible for the commission of offence.

5. Learned Assistant Public Prosecutor submits that entire investigation is completed and charge-sheet is also filed. However, according to him, in view of the heinous crime committed by Accused Nos.1 to 5, this is not a fit case for grant of bail to petitioner.

6. Heard learned counsel on either side and perused the material on record.

7. In the entire charge-sheet, the case of prosecution is that Accused No.1 entered into house bearing No. 8-1-354/1 situated at Adams Colony, Toli Chowki and forcibly thrown the deceased on the floor of kitchen and brutally cut her throat with knife, due to which she died on the spot and thereafter, Accused No.1 also threatened the complainant and his younger brother that they would also be killed in the same way. It is also stated that along with Accused No.1, other accused conspired and hatched up a plan and murdered the deceased.

8. *Prima facie*, this Court feels that, except stating that there is conspiracy in view of the civil litigation pending between the parties, there are no specific overt acts alleged against petitioner, who is Accused No.5. Further, taking into consideration the fact that petitioner has five children,

particularly, the youngest being five-year-old and as she is languishing in jail from the last 117 days, this Court deems it appropriate to grant bail. It is argued by both the learned counsel for de facto-complainant and learned Assistant Public Prosecutor that if the petitioner is enlarged on bail, there is every likelihood of her pressurizing and influencing the witnesses. Except stating the same, nothing has been placed on record to convince this Court.

6. The Criminal Petition is therefore, allowed. The petitioner – Accused No.5 shall be enlarged on bail in connection with Crime No. 195 of 2021, P.S. Golconda on her executing a personal bond for a sum of Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to the satisfaction of XVII Additional Chief Metropolitan Magistrate, Hyderabad at Nampally. Petitioner shall not influence or threaten the witnesses and shall cooperate with the trial.

25th November 2021

LALITHA KANNEGANTI, J

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