

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No. 8331 OF 2021

ORDER:-

This Criminal Petition under Section 438 Cr.P.C. is filed by the petitioner – Accused No.1 seeking bail in the event of his arrest in connection with Crime No. 624 of 2021 of Ghatkeshwar Police Station, Rachakonda, registered for the offence punishable under Section 307 of the Indian Penal Code. After filing of bail petition, offence under Section 3(2)(v) of the SCs & STs (POA) Act has also been added.

2. The case of prosecution is that the *de facto* complainant filed a complaint before the Station House Officer, Ghatkeshwar Police Station on 21.10.2021 stating that he is unmarried and maintained illegal intimacy with one Meena, R/o.Chakripuram, who is already married and having two children and in the month of September, 2021, he went to Meena's house and there, he consumed alcohol along with A-1 and A-2 and later, A-1 brought the complainant to the outskirts where another person was present and they attempted to commit murder of the complainant by trying to cut his throat with knife, as a result, he received throat cut injuries.

3. Learned counsel for the petitioner submits that the petitioner is arrayed as A-1 and as per the complaint, there are no specific overt acts against the petitioner. It is stated in the complaint that the accused tried to cut the throat of the complainant with knife but it is not specifically mentioned as to

which accused, whether A-1 or A-2, tried to commit the said act. In view of the disputes between the parties, the complainant foisted this case against the petitioner. Further, the injury sustained by the complainant is simple in nature and hence, the petitioner may be granted bail.

5. On the other hand, learned Assistant Public Prosecutor also does not dispute the fact that the injury sustained by the petitioner is simple in nature. In view of the grave allegations made against the petitioner, he is not entitled for pre-arrest bail.

6. The Hon'ble Supreme Court in **Siddharam Satlingappa Mhetre Vs. State of Maharashtra**¹ has formulated the guidelines to be taken into consideration while granting bail, as under:

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
- iii. The possibility of the applicant to flee from justice;
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of Sections 34 and 149 of the Indian Penal Code, the court should

¹ AIR 2011 SC 312 = MANU/SC/1021/2010

consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;
- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
- x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

7. Taking into consideration the allegations in the complaint, where there are no specific overt acts against the petitioner that he tried to cut the throat of the complainant, this Court is inclined to grant bail to the petitioner/A-1.

8. Accordingly, this Criminal Petition is allowed. Petitioner/A-1 shall be released on bail in the event of his arrest in connection with Crime No. 624 of 2021 of Ghatkeshwar Police Station, Rachakonda, on his executing a personal bond for Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to the satisfaction of the Station House Officer, Ghatkeshwar Police Station.

Miscellaneous applications, if any, pending shall stand closed.

LALITHA KANNEGANTI, J