

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO. 8889 OF 2021

ORDER:

This Criminal Petition under Sections 437 and 439 Cr.P.C. is filed by petitioner – Accused in Crime No. 392 of 2021 of Bhupalapally Police Station, Jayashankar-Bhupalapally District, registered for the offences punishable under Sections 341, 294(B) and 506 of the Indian Penal Code and Section 3(1)(r) & 3(2)(Va) of the SCs & STs (POA) Act, seeking bail.

2. It is the case of the prosecution that on 24.09.2021 the *de facto* complainant lodged a report stating that the petitioner grabbed the Government lands in Survey Nos.456/1, 263 and 264, he gave complaint to the MRO, Bhupalapally against the petitioner on 23.09.2021 and while he was going to Jangedu from MRO office at about 17.00 hours, the petitioner obstructed him at Government Primary School, Jangedu, abused him in the name of caste, threatened him with dire consequences for complaining against him and tried to beat him and one Burra Ashok and others have stopped the petitioner.

3. Heard the learned counsel for the petitioner, learned Assistant Public Prosecutor appearing for the State and the learned counsel appearing for R-2 and perused the material available on record.

4. Learned counsel for petitioner, Sri A. Prabhakar Rao, submits that the petitioner has no knowledge about the caste of the *de facto* complainant and he has been implicated in this case. In fact, he has filed a complaint, which was registered as

FIR.No.123 of 2019 dated 16.12.2019 for the offences under Sections 501 and 502 read with Section 34 IPC, wherein the complainant has been arrayed as A-8. Learned counsel has drawn the attention of this Court to the said complaint and submits that it is mentioned in the report that A-8/the *de facto* complainant herein belongs to Gowda community, which itself shows that the petitioner has no knowledge that the *de facto* complainant belongs to SC Community. Only with an intention to implicate the petitioner and to settle the civil disputes, the petitioner has been implicated in this case. Learned counsel further submits that though the offences alleged are punishable with less than seven years imprisonment, notice under Section 41-A Cr.P.C. was dispensed with. Even in the remand report, there were no proper reasons given for remanding the petitioner. Hence, the case of the petitioner may be considered for grant of bail.

5. Sri P. Prabhakar Reddy, learned counsel appearing for R-2, submits that there are allegations in the complaint against the petitioner that the petitioner abused the complainant in the name of his caste. He submits that the petitioner is a habitual offender and in fact, as per the remand report also the petitioner is accused in seven cases for the offences under the SCs & STs (POA) Act and if the petitioner is enlarged on bail, there is likelihood that he may threaten the witnesses.

6. On the other hand, learned Assistant Public Prosecutor submits that investigation is pending and six witnesses are examined. As per the remand report, seven cases were registered against the petitioner. Looking at the criminal history of

the petitioner, notice under Section 41-A Cr.P.C. was dispensed with giving detailed reasons and they have filed remand report. He further submitted that the petitioner is a habitual offender and if he is enlarged on bail, he may threaten the witnesses and hamper the investigation process.

7. Petitioner was arrested on 05.11.2021 and as per the complaint, there are disputes between the parties with regard to a piece of land and in this regard, complaint was lodged by the second respondent before the revenue officials and particularly FIR No.123 of 2019 wherein the petitioner herein is complainant and the second respondent herein is arrayed as A-8, where it is mentioned that the *de facto* complainant belongs to Gowda community and this Court finds some force in the argument of the learned counsel for the petitioner.

8. Taking into consideration the fact that the petitioner is languishing in jail from 05.11.2021, this Court deems it appropriate to grant bail to him on certain conditions.

9. The Criminal Petition is, therefore, allowed. Petitioner - Accused shall be enlarged on bail in Crime No. 392 of 2021 of Bhupalapally Police Station, Jaishankar Bhupalapally District, on his 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 the Judicial First Class Magistrate at Parkal. Petitioner - Accused shall appear before the police till completion of trial on every Sunday between 10.00 a.m. and 1.00 p.m. The petitioner - accused shall not indulge in similar type of activities in future and if it is found that he is indulged in similar type of

activities in future, the prosecution is at liberty to file an application for cancellation of bail. Further, the petitioner shall not threaten the prosecution witness or hamper the investigation process.

Miscellaneous applications, if any, pending shall stand closed.

LALITHA KANNEGANTI, J

6th December 2021
RRB