

THE HONOURABLE DR. JUSTICE D.NAGARJUN

CRIMINAL PETITION No.7625 of 2022

O R D E R:

This Criminal Petition is filed by the petitioner/accused No.5 under Section 437 read with Section 439 of Criminal Procedure Code seeking regular bail in S.C.No.5 of 2021 on the file of the learned Additional Metropolitan Sessions Judge, Rangareddy District at LB Nagar in Crime No.592 of 2020 of Gachibowli Police Station, for the offences under Sections 120-B (1), 302, 364, 379, 448, 449, 341, 342, 352, 323 and 506 read with Section 34 of Indian Penal Code.

02. The case of the prosecution as can be drawn from the charge sheet is as follows:

i. LW1 Smt.Chintha Avanthi Reddy @ Avanthi is the daughter of the accused No.2 and 3, and wife of the deceased Hemanth Kumar. The family of LW1 and accused No.2 and 3 were residing in Chandanagar. Similarly, the deceased Hemanth Kumar along with his parents LW2 and LW3 were also living in the same locality and both the families were having good acquaintance. LW2 mother of the deceased was

running a beauty parlour which was being visited by the accused No.3 mother of LW1. On account of closure of both families, the deceased and LW1 became close to each other, and LW1 is a B.Tech computers graduate and was working in a private firm. Whereas the deceased was B.Sc., graduate and both of them became close and fell in love. The parents of LW1 who were accused No.2 and 3 have realized that LW1 and deceased were in love and started putting restrictions not to move and not to talk with the deceased etc.,

ii. On 10.06.2020 the de-facto complainant left her parents house and went to the deceased and both of them went to Santoshi Matha Temple, BHEL Colony and performed marriage and on the following day, they went to SRO Quthbullapur and got registered their marriage, who issued marriage certificate as well. Both took a rented house in the ground floor at TNGO's Colony and started residing.

iii. On realizing that LW1 was missing, her father i.e., accused No.2 has lodged a complaint before the Police, Chandanagar and the Sub-Inspector of Police, Chandanagar, registered a 'woman missing' case in Cr.No.436 of 2020 and took up investigation. The Sub-Inspector of Police,

Chandanagar, summoned the deceased and LW1 and they reached the Police Station along with LW2, LW3, LW35 and LW36 and they informed about their marriage and the Sub-Inspector of Police recorded their statements.

iv. The accused No.2 father of LW1 came along with his wife accused No.3, 1, 8 to 10, 12 to 17, and along with LW29, 31 to 33 and all of them spoken to LW1 trying to convince her to come to their house since the deceased does not belong to their 'Reddy' caste and prestige of their family will be affected due to inter-caste marriage. However, LW1 has vehemently refused to go along with them and also refused to dissolve the marriage with the deceased.

v. Accused No.2 and 3 felt insulted and decided to eliminate the deceased and bring back their daughter to their house. Accused No.2-father of LW1 called accused No.1 who is brother-in-law of accused No.2 and informed about the plan to kill the deceased and promised to pay the amount for that purpose.

vi. On the instructions of accused No.2, accused No.1 consulted accused No.4 and through him contacted one Shekar and offered him to pay Rs.10,00,000/- and paid

Rs.2,00,000/- as advance to kill the deceased. However, the said Shekar could not complete the task and a case in Cr.No.623 of 2020 under Section 120-B read with Section 302 of Indian Penal Code of P.S. Gachibowli was registered.

vii. On the instructions of accused No.2, accused No.1 again consulted accused No.4 Somayala Raju and he inturn contacted one Shankar and offered to pay Rs.10,00,000/- and paid Rs.1,00,000/- as advance to kill the deceased but the said Shankar also could not execute the same and a case in Cr.No.624 of 2020 under Section 120-B read with Section 302 of Indian Penal Code was registered.

viii. Accused No.1 again, on the instructions of accused No.2 contacted accused No.4 to 6 who in turn have contacted one Kanapur Shiva, Narsimha Naik, Kalyan and offered to pay Rs.10,00,000/- and paid an amount of Rs.1,40,000/- as advance. Even this time also the plan was not executed and in this regard, a case in Cr.No.625 of 2020 under Section 120-B read with Section 302 of Indian Penal Code was registered.

ix. Accused No.1 again, on the instructions of accused No.2 met accused No.5 to 7 and discussed about the

failure of previous attempts and offered to pay Rs.7,00,000/- amount and asked to kill the deceased and paid Rs.10,000/- to accused No.1 to 5 and Rs.5,000/- to accused No.7 as advance.

x. On 24.09.2020 accused No.2 and 3 called their relatives i.e., Accused No.8 to 10, 12 to 17 and discussed with them and asked them to abduct the deceased from his rented house and to hand over to the accused No.1, 5, 6 and 7, so that they take him to secluded place and kill him and bring LW1 back to their family.

xi. Accordingly, accused No.1, 8 to 10, 12 to 17 were started from the residence of accused No.2 and 3 to the house of the deceased in White Colour Maruthi Swift Car bearing No. TS 08 ET 3031 and asked accused No.5 to 7 to come to TNGO's Colony and wait between TNGO's Colony and Gopannapally X Road till they bring the deceased. Accused No.8, 9 and 17 went to TNGO's Colony in White Colour I-20 Car bearing No. TS 07 EV 1449, whereas accused No.12 to 16 went in Red Colour Breeza bearing No. TS 15 EX 9781, and accused No.2 and 10 went by Motorcycle Honda Shine bearing No. AP 28 DF 1449 and accused No.2 dropped

accused No.10 at TNGO's Colony at a distance and came back to his house at Lingampally to coordinate with other accused for execution of plan.

xii. After reaching the house of LW1 and deceased at TNGO's Colony, the accused No.8 to 10, 12 to 16 entered into the house and asked LW1 and deceased to come to accused No.2 and 3 for discussions, for which they refused. Accused No.8 to 10, 12 to 16 have dragged the deceased and also LW1 from the house and made them to sit in I-20 Car bearing No. TS 07 EV 1449 and accused No.17 drove the said car in which accused No.9, sat in front seat, accused No.8 sat beside LW1 and deceased in rear seat. The remaining accused No.10, 12 to 16 went by vehicle Red Colour Breeza bearing No. TS 15 EX 9781 following I-20 Car. Accused No.1 also followed I-20 car and also picked up accused No.5 to 7 before Gopanapally X Road in en-route.

xiii. The deceased made phone calls to his father i.e., LW3 Murali Krishna and intimated about their abduction by accused and upon which LW2 and LW3 started to TNGO's colony to know about abduction of LW1 and deceased and

also made call to LW4 and asked her to lock their house, on which LW4 went and locked the house of LW1 and deceased.

xiv. The said I-20 car reached Gopanpally X Road and took left turn towards outer ring road instead of right turn towards Lingampally, due to suspicion LW1 and deceased tried to escape by getting into Auto with the help of LW8 who was present on the road side. But the accused No.5, 6 and 9 caught hold of the deceased and dragged him into accused No.1's White Colour Maruthi Swift Car bearing No. TS 08 ET 3031 and accused No.1, 5 to 7 took the deceased towards ORR and accused No.10 contacted accused No.2 and informed about the deceased being abducted and taken into white swift car and accused No.2 instructed LW10 to push LW1 into the car and get her to Lingampally. Accused No.1, 5 to 7 took the deceased towards ORR and accused No.7 who was sitting in the front seat has got down before Vattinagulapally Village and went towards his house.

xv. On the information given by the deceased, LW2 and LW3 while proceeding towards TNGO's Colony, they informed Police through dial-100 about abduction of the deceased and LW1 and patrol car Police i.e., LW70 reached

Gopanpally X Road, where accused No.8 to 10, 12 to 17 were present and trying to push them in their cars and also picked up quarrel with LW2 and LW3 and escaped in their I-20 and Breeza cars by leaving LW1. LW1 to LW3 along with LW70 made efforts to locate the deceased and other accused but they did not find them.

xvi. Accused No.1, 5 and 6 along with deceased proceeded in Swift car to Raikode (M) through Patancheruvu, Sangareddy, Sadashivapeta and enroute they got filled fuel in the swift car at Isnapur filling station. Accused No.1 has purchased jute rope in SRR Traders shop of LW18 at Chimnapur Village of Raikode Mandal, to kill the deceased by strangulation. Accused No.1, 5 and 6 along with deceased further went to Raikode Village and accused No.1, 5 and 6 purchased liquor from the New Bhavani wine shop from LW21. The accused No.1 purchased mixture and water bottles in Ramchander Balaji Sweet Shop of LW26.

xvii. Accused No.1, 5 and 6 returned back towards Sangareddy and on the way they consumed liquor and tried to convince the deceased to leave LW1 otherwise they would kill him and the deceased refused to do so, on which accused

No.5 and 6 tied hands and legs of the deceased with jute rope which was purchased by accused No.1. Accused No.1 drove the swift car towards open plots in Kistaiahgudam Village before Sangareddy town and pulled out deceased from car. Accused No.1 and 5 strangled the deceased with jute rope while accused No.6 caught hold of the deceased and committed theft of mobile phone and gold ornaments i.e., one bracelet from the deceased and thrown the dead body into nearby herbs and returned back to Patancheru.

xviii. Accused No.1 telephoned and called LW27 and asked him to come to Patancheru Yellamma Temple along with LW28 Jagan Mohan and also bring an amount of Rs.30,000/- which was owed to accused No.1 by LW27. LW27 brought Rs.30,000/- and gave the same to the accused No.1. The accused No.1 in turn gave Rs.20,000/- to accused No.5. Accused No.1 further asked LW27 to drop accused No.5 at Kolluru Village and accordingly LW27 dropped accused No.5 at Kolluru Village on his vehicle and returned back to Patancheru and met accused No.1.

xix. Accused No.1 informed LW27 and LW28 about killing of deceased and they immediately left the place and

went to their homes. The accused No.1 and 6 in order to escape left Patancheru and proceeded to Ravelkole Village to the house of Accused No.18 through ORR and when they were proceeded to Ravelkole Village, the accused No.1 informed the accused No.18 that they killed the deceased and coming to take shelter and accused No.18 agreed to give shelter and harboured the accused No.1 and 6 in his house. Thereby accused No.1 to 18 have committed the offences punishable under Sections 120-B (1), 302, 364, 379, 448, 449, 341, 342, 352, 323 and 506 read with Section 34 of Indian Penal Code.

03. After completion of investigation, Police filed charge sheet as well as additional charge sheet including the reports of FSL, extracts of voice calls of the mobile phones of the accused, along with the transcription of the calls, and CCTV footages etc.,

04. Heard Sri Koka Srinivasa Kumar, learned counsel for the petitioner as well as Sri S. Ganesh, learned Assistant Public Prosecutor for the State/respondent No.1 and Sri V.

Raghunath, learned Senior Counsel appearing on behalf of the respondent No.2. Perused record.

05. It is submitted by the learned counsel for the petitioner that trial has been commenced and prime witnesses were already examined and that the CCTV footages and spectrographic examination report, do not connect the petitioner/accused No.5 with any of the accused and much less with accused No.1 and that there is no material connecting the petitioner/accused No.5 to the alleged crime, and that petitioner/accused No.5 is falsely implicated and he is the only bread winner of his family and comes from respectable person, and that accused No.11, was already granted bail vide CRL.P.No.662 of 2022, and that the petitioner is in judicial custody since more than 1 ½ years, hence sought for enlarging the petitioner/accused No.5 on bail.

06. Sri S. Ganesh, learned Assistant Public Prosecutor filed counter opposing the bail application reiterating the allegations in the charge sheet. He has submitted that basing on the confession of the

petitioner/accused No.5 his mobile phone was seized at this instance and call data analysis clearly establishes that accused No.5 and the other accused were in contact and also taken part in the conspiracy and in case if the petitioner/accused No.5 is released on bail, trial process would be affected and hence prayed to dismiss the bail petition.

07. Sri V. Raghunath, learned Senior Counsel appearing on behalf of the respondent No.2/de-facto complainant filed counter opposing the bail. He has submitted that the petitioner/accused No.5 along with other accused have conspired together and brutally killed the husband of the respondent No.2 only for the reason that de-facto complainant got performed inter-caste marriage and that the crime committed by the petitioner is a heinous, barbaric act and is a honour killing, hence sought for dismissal of the petition.

08. Now the point for consideration:

Whether the petitioner/accused No.5 in S.C.No.5 of 2021 on the file of the learned Additional Metropolitan Sessions Judge, Rangareddy District at LB Nagar in Crime

No.592 of 2020 of Gachibowli Police Station for the offences under Sections 120-B (1), 302, 364, 379, 448, 449, 341, 342, 352, 323 and 506 read with Section 34 of Indian Penal Code, is entitled for grant of regular bail ?

P O I N T:

09. According to the prosecution version, accused No.2 and 3, the parents of the de-facto complainant, have decided to eliminate the husband of the de-facto complainant as he does not belongs to 'Reddy' community. Having decided so, they have contacted accused No.1, the brother of the accused No.3 who along with accused No.2 and 3 have conspired with other accused to commit the offence.

10. The accused Nos.1 to 3 have made unsuccessful attempts on three occasions to eliminate the deceased by engaging contract killers to kill the deceased. They agreed to pay of Rs.10,00,000/- to the contract killer to kill the deceased and paid certain amounts as an advance. In respect of those unsuccessful attempts cases in Crime Nos.623, 624 and 625 of 2020 under Section 120-B read with Section 302 of the Indian Penal Code of Gachibowli Police Station were registered.

11. Finally, all the accused got together and conspired a plan to kill the deceased. Accordingly, on the fateful day i.e., 24.09.2020 as per the conspiracy, the accused No.1, 8 to 10, 12 to 17 started from the house of accused Nos.2 and 3 in White Colour Maruthi Swift Car bearing No. TS 08 ET 3031 and went to house where the deceased was living along with the de-facto complainant. When the de-facto complainant and the deceased have refused to discuss with them, the said accused persons forcefully dragged the deceased and also LW1 from the said house and made them to sit in I-20 Car bearing No. TS 07 EV 1449 which was driven by accused No.17. The other accused Nos.10, 12 to 16 have followed I-20 Car bearing No. TS 07 EV 1449 in Red Colour Breeza bearing No. TS 15 EX 9781.

12. Accused No.1 who is main culprit has asked accused Nos.5 to 7 to wait in between TNGO's Colony and Gopanapally X Road till the other accused bring the deceased to the said place. Accordingly, accused Nos.5 to 7 were waiting at Gopanapally X Road. Accused No.1 who was also following I-20 Car bearing No. TS 07 EV 1449 and Red Colour

Breeza bearing No. TS 15 EX 9781 has picked up accused Nos.5 to 7 near Gopanapally X Road and continued to follow I-20 Car bearing No. TS 07 EV 1449.

13. I-20 Car bearing No. TS 07 EV 1449 in which the deceased and LW1 were travelling has taken left turn towards outer ring road instead of right turn towards Lingampally. Out of suspicion, LW1 and deceased tried to escape, on which accused Nos.5, 6 and 9 caught hold of the deceased and dragged him into accused No.1's White Colour Maruthi Swift Car bearing No. TS 08 ET 3031. Accused Nos.1, 5 to 7 took the deceased towards ORR. In the mean while, accused No.7 who was sitting in the front seat has got down before Vattinagulapally Village and left the place, however, rest of them proceeded.

14. In the mean while, accused Nos.1, 5 and 6 along with deceased proceeded in Swift car to Raikode (M) through Patancheruvu, Sangareddy, Sadashivapeta and they purchased liquor, snacks and water bottles proceeded towards Sangareddy and consumed liquor and tried to convince the deceased to leave LW1 otherwise they would kill

him and the deceased refused to leave LW1, on which accused No.5 and 6 tied hands and legs of the deceased with jute rope which was purchased by accused No.1. Accused No.1 drove the swift car towards open plots in Kistaiahgudam Village and pulled out deceased from car. Accused No.1 and 5 strangled the deceased with jute rope while accused No.6 caught hold of the deceased and thereby the deceased died.

15. The learned counsel for the petitioner has submitted that though the accused No.1 has contacted three persons earlier and paid Rs.2,00,000/-, Rs.1,00,000/- and Rs.1,40,000/- respectively, to kill the deceased. According to the prosecution, accused No.1 paid only Rs.15,000/-, to the accused No.7 and Rs.20,000/- to the accused No.5, thereby the version of the prosecution cannot be believed. This contention of the learned counsel for the petitioner is not convincing as even a promise to pay the money could have been tempted the accused No.7 to participate in the commission of offence along with the other accused. Except that the petitioner was a paid killer, there is no other

connection to the accused No.7 and the family of the accused. It is submitted by the learned counsel for the petitioner that there is no incriminating material to connect the petitioner to the offence. However, confessional statements of accused Nos.1, 5 to 7 would clearly disclose about involvement of accused No.5.

16. It is also brought out in the investigation of the Police that the accused No.6, 5 and 7 were waiting at TNGO's Colony. As per the conspiracy, the deceased was being taken to the scene of offence by then accused Nos.1, 5 and 7 however, in the meanwhile accused No.7 got down. Even CCTV footages taken from various places, also discloses the participation of all the accused including the accused No.5.

17. The trial Court having gone through entire material on record, framed the charges against all the accused including the petitioner/accused No.5 and that petitioner/accused No.5 did not file any application to discharge. The trial has already been commenced and so far the prosecution has reportedly examined three witnesses and PW3 is being cross-examined by the accused persons.

18. This is a case where the prosecution case solely rests on the circumstantial and scientific evidence as there are no eyewitnesses. In a delicate case like this, in case if the accused are successful in attempting to break the chain of circumstances, there is every chance that real culprits may likely get out of the clutches of the system.

19. On perusal of the above material placed before the Court including the confessional statements of the accused persons, it is clear that the role of the petitioner/accused No.5 is very much intense, active and prominent in killing the deceased by conspiring with accused.

20. In case, if the petitioner/accused No.5 is enlarged on bail there is every likelihood of threatened the witness, therefore, this Court is of the opinion that the petitioner / accused No.5 is not on the similar footing to that of accused No.10 who was released on bail earlier in CrI.P.No.662 of 2022. Therefore, this is not a fit case for grant of bail to the petitioner/accused No.5 and this petition is liable to be dismissed.

21. Accordingly, this Criminal Petition is dismissed.

There shall be no order as to costs.

As a sequel, pending Miscellaneous Applications in this matter, if any, shall stand closed.

Date: 11-Nov-2022
KHRM

DR. D.NAGARJUN, J

THE HONOURABLE DR. JUSTICE D.NAGARJUN

CRIMINAL PETITION No.7625 of 2022

Date: 11-Nov-2022
KHRM