

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No. 9609 of 2022

ORDER:

This Criminal Petition is filed under Section 438 of Cr.P.C. by petitioners/A1 to A3 seeking bail in the event of their arrest in connection with Crime No.121 of 2022 on the file of Neradigonda Police Station, Adilabad District, registered for the offences punishable under Sections 447, 427, 307 r/w.34 of the Indian Penal code and Section 3(2)(v)(va) of the SC & STs (POA) Act.

2. Heard learned counsel for the petitioners and learned Assistant Public Prosecutor for the respondent-State and perused the record.

3. The case against the petitioners is that the defacto complainant is an agriculturist of Neradigonda village. On 21.10.2022 at about 4.30 P.M. the 1st petitioner drove Harvester Vehicle over Soyabean crop, as such, the crop was damaged. The defacto complainant's father questioned the 1st petitioner, but, there was no response. However, in the evening at 7.30 P.M. all the petitioners beat the father of the defacto complainant. Thereafter, the father of the defacto complainant was shifted to hospital for treatment.

4. Learned Counsel for the petitioners submits that even according to the complaint there were disputes regarding the land for which reason, a false case has been filed against the petitioners. He further

submits that in the event of there being no allegations to attract the offence under the provisions of SC & STs (POA) Act, Anticipatory bail can be granted.

5. On the other hand, learned counsel appearing for the 2nd respondent/defacto complainant submits that there is prohibition under Section 18 of the SC & STs (POA) Act, from granting Anticipatory Bail. Further, there are acts of the petitioners amounting to deliberate attempt to cause murder of the father of the defacto complainant, which fact can be gathered from the petitioner attacking the deceased.

6. He relied upon the Judgments of the Honourable Supreme Court in ***i) Union of India & others v. State of Maharashtra***¹ and ***State of M.P. and another v. Ram Kishna Balothia and another***² and argued that the petition has to be dismissed even without getting into the facts of the case keeping in view the bar under section 18 of the SC & STs (POA) Act.

7. The Honourable Supreme Court in the Judgment of ***Union of India v. State of Maharashtra (supra 1)*** at para-57 held that if a *prima facie* case is not made out attracting the provisions in the SC & STs (POA) Act, the bar created under Section 18 for grant of Anticipatory Bail, will not be attracted.

¹ (2020) 4 SCC 761

² (1995) 3 SCC 221

8. As seen from the complaint, there was a dispute regarding driving the Harvester Vehicle over the Soyabean crop of the complainant. Thereafter, an altercation ensued for the reason of the father of the defacto complainant questioning the petitioners, the petitioners in turn beat him with sticks.

9. In the entire complaint there is no averment that the said acts of either driving the Harvester Vehicle or beating, are on account of the defacto complainant belonging to Scheduled Caste or Scheduled Tribe.

10. In the said circumstances, *prima facie*, at this stage it can be held that a *prima facie* case under the provisions of SC & STs (POA) Act, is not made out. The injuries received by the victim are lacerated wounds over elbow, forearm, back and little finger. No injuries are found on any vital parts of the body. The victim was treated as out-patient.

11. For the aforementioned reason, this Criminal Petition is allowed and these petitioners can be granted the relief of anticipatory bail in the event of their arrest, subject to the following conditions:

- 1) The petitioners/A1 to A3 are directed to surrender before the Station House Officer, Neradigonda Police Station, Adilabad District, within a period of ten days from the date of this order. On such surrender, the said Station House Officer shall release the petitioners/A1 to A3 on bail, on their executing personal bonds for a sum of Rs.50,000/- (Rupees Fifty Thousand only) each with two sureties for a like sum each to his satisfaction.

- 2) On such release, the petitioners/A1 to A3 shall appear before the concerned police, every day, from 10.00 a.m. to 12.00 noon, for a period of 30 days, for the purpose of investigation.
- 3) The petitioners/A1 to A3 shall abide by the other conditions stipulated in Section 438(2) of Cr.P.C and shall co-operate with the Investigating Officer in investigating the case.

Miscellaneous applications, if any pending in this criminal petition, shall stand closed.

Date : 17.11.2022
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K.SURENDER, J

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Dt. 17.11.2022

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