



Crl.O.P.Nos.16780, 17152 & 17155 of 2023

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C.V.KARTHIKEYAN, J.

The accused in Crime No.160 of 2020 which had been registered under Sections 287, 337, 304(ii) IPC and thereafter altered to Sections 287, 337, 338, 304(ii) IPC with respect to an alleged occurrence took place on 07.05.2020 had filed Crl.O.P.No.17152 of 2023.

2.The accused in Crime No.295 of 2020 which had been registered by the respondent police under Sections 287, 337 and 304 (ii) IPC with respect to an alleged occurrence took place on 01.07.2020 have filed Crl.O.P.No.17155 of 2023 and Crl.O.P.No.16780 of 2023.

3.Even though three criminal original petitions referred to two separate FIRs registered on complaints lodged with respect to occurrences which took place on two separate dates, since arguments were advanced in common to all the issues raised, and the facts also overlapped and the accused are also same and the intervening petitions have also filed with respect to all the three criminal original petitions and a status report had



also been filed with respect to both FIRs, it is only prudent that a common order is passed in all the three criminal original petitions.

4.The accused in both Crime No.160 of 2020 and Crime No.295 of 2020 are officials of Neyveli Lignite Corporation Limited (NLC) at Neyveli in Cuddalore District.

5.The FIR in Crime No.160 of 2020 came to be registered with respect to an accident which had occurred in the Thermal Power Station - II of NLC on 07.05.2020. In that particular accident, totally five workers had unfortunately died and three workers had suffered injuries. Immediately, thereafter on 01.07.2020 within 60 days, a second accident had taken place in Unit - V Thermal Power Station - II of NLC. In this accident, fifteen workers had died and eight workers suffered injuries. Hence, FIR in Crime No.295 of 2020 was registered.

6.It is to be noted that the accidents had taken place in May



2020 and in July 2020 and though the accused were identified and named, for reasons best known to the respondent, no steps have been taken to secure the accused. The accused had merrily been around and only in the year 2023, they have preferred these three Criminal Original Petitions seeking anticipatory bail. Again for reasons best known to the accused with respect to FIR in Crime No.295 of 2020, two separate Criminal Original Petitions have been filed by de-linking, accused Nos.3 and 8 who had filed CrI.O.P.No.16780 of 2023 and the other accused had jointly filed the other petition in CrI.O.P.No.17155 of 2023.

7.The brief facts as stated in FIR in Crime No.160 of 2020 are that on 07.05.2020, an accident had occurred in the Thermal Power Station, according to the petitioners due to “mechanical failure beyond human control”. It is stated that the petitioners, being in-charge of that particular unit of the Thermal Power Station where the accident had taken place namely, Thermal Power Station – II, they had been implicated as accused. In the same breathe, they also claimed that they are innocent of the occurrence of the accident and therefore, taking an overall view of the entire issue, since it was only an accident beyond their



control, they seek anticipatory bail.

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8.It is an admitted fact that owing to the said accident five workers had died and three workers had suffered injuries. The learned counsel for the petitioner placed special emphasis on the fact that NLC had provided employment to the dependents of the five workers who had died and also paid compensation not only to those family members who had died but also to those who had suffered injuries.

9.With respect to the facts in FIR in Crime No.295 of 2020, which was again with respect to an accident which had once again occurred on 01.07.2020, but in Unit – V at NLC Thermal Power Station – II, according to the petitioners, there was a power spark which emerged from the boiler and consequently, the boiler burst and an accident occurred leading to death of fifteen workers, apart from causing injuries to eight workers. Again it was stated by the learned counsel for the petitioners that the petitioners could not be directly held responsible for the accident, and also stated that the Corporation had provided employment to one dependent of every family of the deceased, quite apart



from payment of compensation and had also paid compensation to those who had suffered injuries.

10. Primarily placing stress on the fact that the accidents had occurred 'beyond human control', the learned counsel for the petitioners urged that this Court should consider grant of the reliefs sought in these Criminal Original Petitions.

11. There has been a petition filed on behalf of an intervener who had entered appearance and who had also been permitted to participate in the proceedings. The intervener is the State General Secretary of a particular Association and claims that he fights for the noble cause of the employees of NLC, even though he is neither an employee of the Corporation nor a member of the family of anyone of the deceased or a member of the family of the injured or the injured. He had however come forward by filing applications to intervene and by an order dated 04.09.2023, my learned predecessor had granted permission to participate in the proceedings.

12. It is the contention of the intervener that these two accidents were not isolated and standalone accidents in NLC and attention was



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drawn to the fact that there were earlier instances when accidents had occurred and specific attention was drawn to the fact that on 22.12.2022, there was a fire accident in which one worker died. It is also stated that on 16.08.2023, a van which carried the workers capsized lead to injuries caused to several workers.

13.It is the contention of the learned counsel for the intervener that the activities of the petitioners, particularly the lack of care taken and the negligence shown towards maintaining the boiler units had also come to the adverse knowledge of the National Green Tribunal, Principal Bench at New Delhi in O.A.No.919 of 2022. By a hearing dated 18.01.2023, the National Green Tribunal, had an occasion to pass adverse comments against the functioning of NLC. It had been very specifically stated in the said order that measures should be extended to the victims and it had also been observed that the root cause for the accidents is insufficient knowledge among the staff, insufficient knowledge of the chemical properties of lignite and the reaction of water gas when water is applied on the lignite in hot conditions, poor safety protocols, poor safety awareness, lack of specific knowledge about the



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dangers involved in the boiler units and in handling lignite as a product and its reaction when it is hot with water. It had also been noted that safety awareness programs had not been conducted and work permits had also not been issued to the workers.

14.It had also been pointed out by the learned counsel for the intervener that the National Green Tribunal had also observed that, the occupier of the Unit No.5, Thermal Power Station - II, and the Division Head of Operations and Maintenance of the Unit and Safety Officer are responsible for the accidents. In effect, it had been stated that the petitioners cannot claim innocence and they cannot claim ignorance of safety measures and also cannot seek indulgence of this Court to grant anticipatory bail.

15.The learned counsel for the intervener also stated that the workers were primarily contract workers and they had suffered owing to lack of safety measures taken by the petitioners herein and the failure to discharge responsibility to the workers and to provide safe atmosphere to the workers of NLC.



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16.The learned Government Advocate (Criminal Side) for the respondent police stated that even though the First Information Reports had been registered in the year 2020 there were various procedures, which had to be taken and they had to also take into account the fact that compensation had been paid to the family members of the deceased and to the injured and also had to take into consideration the fact that employment had been provided to one dependent in the family of the deceased. It was also stated that there was several internal discussions about the actual cause for the accident. It was stated that, it was for those reasons that though the accused were known, steps have not been taken to secure the accused.

17.It had also been contended that in FIR in Crime No.160 of 2020, since it had been held out that an accident had taken place which was beyond human control, primary provision of law on which the FIR had been registered was Section 304A IPC, but when it recurred, FIR in Crime No.295 of 2020 had been registered under Section 304(ii) IPC. It had been stated that investigation had not even started and investigation



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will have to be done to determine the cause for the accident, whether it was human error or negligence, which caused death of the unfortunate workmen and injuries to the other workmen.

18.A status report had also been filed by the Investigation Officer and it had been stated that there is every possibility of the accused tampering witnesses and hampering evidence. It was also stated that the accused were also absconding and it was also pointed out that the anticipatory bail application before the Sessions Court, Cuddalore, had also been dismissed.

19.I have carefully considered the arguments advanced and perused the relevant papers.

20.All the three Criminal Original Petitions had been filed by the same set of accused, who are officers of Neyveli Lignite Corporation Limited. It must be mentioned that NLC is a Government of India undertaking Public Sector. Naturally, the funds generated also form part of public contribution and therefore every member in the society would be



interested in ensuring that utmost safety is provided to all workers and employees of the said Corporation. The said Corporation cannot wash away its responsibility as a private company could do or might try to do. There is an inbuilt responsibility which the company owes not only to its employees but also to every member of the society. The entire issue will have to be viewed on that particular basis.

21. It is not as if the petitioners herein are novices or do not have any experience in their respective department. They appear to be senior officials of NLC. They should exercise utmost care for the safety of the employees. They cannot, at the same time, walk away and state that if an accident occurs, it was beyond their control and that the workers died not owing to any negligence on their part. The responsibility flows right up to the Management and in this connection, it is not the stand of the petitioners that they have been wrongly arrayed as accused. There has not even been a whisper, even during the course of arguments that out at least one of the petitioners should not have been arrayed as accused and that the respondent had wrongly arrayed the petitioners as accused.



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22. Therefore, it can be safely presumed that the petitioners were holding responsible position and were the controlling authorities over the functioning of Thermal Power Station and of the boiler plant. They are the persons who should have exercised control. They are the persons, who have technical knowledge. They are the persons, who in the first place were responsible to detect whether any mistake had happened and whether there was any possibility of accident occurring.

23. The learned counsel for the petitioners stated that the accident occurred during the period of Covid-19 Pandemic. It had also been lamented that during that particular period there were very few workmen who had come and there was possibility of a negligent act being done.

24. If that be the case, then utmost further care should have been taken by the petitioners. They cannot leave the workers at risk and thereafter shed crocodile tears. Merely giving employment to one of the dependents of the family of the deceased workmen would not bring back the life of the workmen who had died. That is a step which is only



expected. But what is of utmost necessary is to have prevented atleast the second accident on 01.07.2020. This shows carelessness and indifference on the part of the petitioners, who were least bothered about the loss of life or the sufferance owing to injuries to the workmen.

25.It is also very surprising to note that the respondent / Investigation Officer had not taken any steps, whatsoever, to secure the petitioners herein. Filing a status report and claiming that there is every possibility of the petitioners tampering of evidence, when evidence could have been washed away by passage of three years of time also shows the extreme indifference and lackadaisical attitude of the Investigation Officer. It is for this reason that the learned counsel for the intervener had stated that there is every possibility of collusion and there was an attempt to brush the entire issue under the carpet.

26.I hope that the Investigating Officer would atleast now wake up to his responsibility to society and examine and investigate the cause of accident. If the evidence had already been washed away, then the



petitioners herein would also be liable for that particular offence of screening evidence from the Investigating Officer. There has already been a delay in conducting of investigation.

27.The learned Sessions Judge had also dismissed the application seeking anticipatory bail. None of the petitioners had been taken into custody. They have not been examined. They have not been interrogated. No personal inspection had been conducted in the place where the accidents had occurred. No statements had been recorded as to how and why the accident had occurred.

28.In view of all these facts, the petitions seeking anticipatory bail is only an attempt to screen the evidence. I am not impressed with the arguments advanced and this Court is not inclined to grant anticipatory bail to the petitioners. Accordingly, these Criminal Original Petitions are dismissed.

29.After the orders had been dictated, the learned counsel for the petitioners stated that the respondent police have stated that the



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accident occurred owing to mechanical error. This statement reinforces the conviction of the Court that the petitioners are hand in glove and in collusion with the Investigating Officer.

30.The copy of this order may therefore be forwarded to the Director General of Police, Government of Tamil Nadu, who may deeply consider changing the Investigating Officer immediately.

01.11.2023

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Note:-

The Registry is directed to forward this order to the Director General of Police, Government of Tamilnadu, forthwith.

C.V.KARTHIKEYAN, J.

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