

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

CRIMINAL PETITION No.456 OF 2023

ORDER:

This Criminal Petition is filed by the petitioner/accused No.3 under Sections 437 & 439 of the Criminal Procedure Code, 1973 seeking bail in Crime No.18 of 2016 of Station House Officer, Dharmapuri Police Station, on the file of the learned I Additional District & Sessions Judge at Jagital in S.C.No.13 of 2018, registered for the offence under Sections 120-B and 307 of the Indian Penal Code.

02. Heard Sri P Prabhakar Reddy, learned counsel for the petitioner/accused No.3 as well as Sri T. V. Ramana Rao, learned Additional Public Prosecutor for the Respondent / State and perused the record.

03. The case of the prosecution is that the deceased who was resident of Sulthanabad was doing real estate business in Karimnagar and the accused No.1 has got site at Karimnagar and has approached the deceased for giving the land on lease for starting petrol bunk business. Accused No.1 agreed to pay Rs.10,000/- per month as rent and

Rs.3,00,000/- as an advance. Later on the demand made by the deceased, the accused No.1 agreed to pay Rs.50,000/- per month as rent and Rs.20,00,000/- as an advance. Accused No.1 has also given Rs.10,00,000/- as cash and cheque for Rs.10,00,000/- on which a registered lease deed was executed on 17.12.2014. The deceased started demanding balance of Rs.10,00,000/- from the accused No.1 as the cheque given by him was dishonoured.

04. On which, accused No.1 decided to eliminate the deceased and requested the accused No.3 and 4 for help. Both of them demanded Rs.10,00,000/- on which the accused No.1 sought help of the accused No.2 and 5. As per the plan accused No.1 and 2 have abducted the deceased and caused the death of the deceased in the outskirts of Dharmapuri and thrown him into the bushes and set ablaze.

05. It is submitted by the learned counsel for the petitioner/accused No.3 that the petitioner/accused No.3 is innocent and he is not at all involved in the death of the deceased and even according to the prosecution, though accused No.1 has consulted accused No.3 for help in

eliminating the deceased, since accused No.3 and 4 have demanded Rs.10,00,000/- for execution, the accused No.1 has executed the plan through other persons.

06. Learned Additional Public Prosecutor for the State / Respondent has opposed for grant of bail and prayed for dismissal of the petition.

07. As seen from the record including the charge sheet, there are no allegations or overtacts against the accused No.3, except accused No.1 consulted accused No.3 for help in eliminating the deceased. Subsequently, accused No.1 has not contacted the petitioner/accused No.3 and the accused No.1 with the help of the accused No.2 killed the deceased. So far as killing of the deceased is concerned, plan was hatched by accused No.1 with the help of accused No.2 and there is no involvement of the accused No.3.

08. Record also further speaks that this petitioner was granted bail by this Court vide Orders dated 05.05.2016 in CRL.P.No.6875 of 2016. On going through the Orders passed by this Court, the petitioner/accused No.3 was enlarged on bail with certain conditions. It is clear that as

on the date of passing of Orders, the investigation was still in progress and chargesheet also was not filed. This Court has observed even in the said Orders while granting bail the Court observed that there is no involvement of the petitioner/accused No.3 in the death of the deceased. Once bail has been granted by this Court, the petitioner/accused No.3 normally, should have been released on bail.

09. It is submitted by the learned counsel for the petitioner that the petitioner was found guilty in S.C.No.506 of 2012 for the offence under Section 302 of the Indian Penal Code vide Judgment dated 28.06.2017 on the file of the learned I Principal Sessions Judge, Karimnagar and sentenced to suffer life imprisonment. On account of life imprisonment awarded to the petitioner, the petitioner / accused No.3 was not released on bail. It is further reported that the petitioner/accused No.3 has preferred Criminal Appeal No.1029 of 2017 before this Court aggrieved by the Judgment dated 28.06.2017 in S.C.No.506 of 2012 on the file of the learned I Principal Sessions Judge, Karimnagar and the said Criminal Appeal is still pending.

10. It is also submitted that the petitioner has moved an application for grant of bail in Criminal Appeal No.1029 of 2017 in I.A.No.1 of 2022 dated 30.11.2022 and ordered the petitioner to be released on bail. The petitioner, however, could not be released on bail on account of the fact that the petitioner is still in judicial custody in S.C.No.13 of 2018 on the file of the learned I Additional District & Sessions Judge at Jagtial.

11. It is to be seen that normally once the bail has been granted by this Court vide Orders dated 05.05.2016 in CRL.P.No.6875 of 2016, the petitioner/accused No.4 should have been released after getting the copy of bail order. However, for the reasons best known to the petitioner, he has not been released on bail. Either learned the counsel for the petitioner or the learned Additional Public Prosecutor for the State could not provide any information as to whether the bail granted to the petitioner/accused No.3 vide Orders dated 05.05.2016 in CRL.P.No.6875 of 2016 was cancelled or recalled.

12. However, the petitioner/accused No.3 has approached the learned I Additional District & Sessions Judge at Jagtial in S.C.No.13 of 2018 and filed Criminal Miscellaneous Petition No.210 of 2022 seeking grant of bail. Learned Judge on hearing both sides, dismissed the application on the ground that the case is coming up for arguments, if bail is granted he may abscond from the judicial proceedings. Once this Court vide Orders dated 05.05.2016 in CRL.P.No.6875 of 2016 granted bail to the petitioner and the petitioner/accused No.3 should not have gone to the learned Sessions Court for granting bail and suffer its rejection.

13. As seen from the record, the petitioner/accused No.3 is not at all involved in the killing of the deceased and even entire story of the prosecution is accepted, as per the charge sheet accused No.1 committed the offence with the help of accused No.2. Learned Additional Public Prosecutor for the State has not placed any material to show after completion of trial, anything incriminating material emerged against the petitioner.

14. Therefore, in view of the above, this Court is of the opinion that the petition filed by the petitioner/accused No.3 seeking regular bail can be considered.

15. Considering the facts and circumstances of the case, this is a fit case for grant of regular bail to the petitioner/accused No.3.

16. Accordingly, the Criminal Petition is allowed and the petitioner / accused No.3 is directed to be released on bail on his executing personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned I Additional District & Sessions Judge, Jagtial.

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

Date: 20-Jan-2023
KHRM

DR. D.NAGARJUN, J

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