

THE HONOURABLE SRI JUSTICE Dr. D. NAGARJUN

Criminal Petition No.305 of 2023

ORDER:

This Criminal Petition is filed by the petitioner / Accused No.15 under Section 438 of the Code of Criminal Procedure, 1973 (**for short, 'the Act'**) praying this Court to grant bail to the petitioner who is arrayed as Accused No.14 in the event of his arrest in F.I.R.No.2 of 2023, dated 02.01.2023 on the file of Nizamabad Town-VI Police Station, Nizamabad District, for the offences under Sections 147, 148, 120(B), 302 r/w Section 149 of Indian Penal Code and Section 25 of Arms Act.

2. Heard Mr. M.A.K. Mukheed, learned counsel for the petitioner; and Mr. T.V.Ramana Rao, learned Additional Public Prosecutor, appearing on behalf of the respondent/State.

3. Perused the record.

4. As per the contents of the remand report, it is clear that the deceased along with accused No.1 and other accused belonging to the same group used to commit

number of crimes such as settlements, land grabbing, criminal intimidation and illegal transportation of P.D.S. rice, including threatening the public, and extorting money, etc. Subsequently, when disputes arose between the deceased and other accused, the other accused invited the deceased for celebrating birthday party of A.7 at Nehru Nagar, Nizamabad on 01.03.2023. When the other accused came to know that the deceased was coming to the party, they equipped themselves with arms with an intention to kill the deceased. When the deceased arrived at the party, at about 10:30 p.m. the Accused Nos.1 to 12, who were also present at the party, started beating the deceased. Thereafter, accused Nos.A.5 to A.11 caught hold of the deceased; accused No.1 stabbed the deceased; accused No.2 also stabbed the deceased. Finally they threw the deceased into the drainage canal; and they also threw a boulder on the head of the deceased.

5. According to learned counsel for the petitioner, the petitioner / Accused No.14 was not at all present at the scene of offence and he is not one of the conspirators causing the death of the deceased. Even according to the case of the prosecution, as per the confession statement of

Accused No.2, the petitioner is stated to have given assurance to Accused No.2 that he would cooperate in eliminating the deceased.

6. On the other hand, learned Additional Public Prosecutor, appearing for the respondent-State, contended that the petitioner is a strong follower of Accused Nos.1 to 12 and he has also committed offences earlier and therefore opposed grant of bail. Learned Additional Public Prosecutor though demonstrated that certain cases were pending against the petitioner, the petitioner is also part of the crime committed by Accused Nos.1 to 12.

7. Therefore, in view of above, the question to be considered is whether the accused No.14 is in any way involved in the above crime causing the death of the deceased.

8. On going through the statement of accused Nos.1 and 2 and the remand report of Accused Nos.1 to 12, it can be seen that no material is placed before the Court to prove the involvement of the petitioner herein causing death of the deceased. Even if the confession statement of Accused No.2 is accepted, still the only thing that the petitioner stated to

have committed is that he would cooperate in the conspiracy hatched by the accused; and except that lone assurance, there is no overt act committed by the petitioner to show that he has helped in any manner in committing the offence by Accused Nos.1 to 12. Therefore, considering the above circumstances, and also the fact that there is no material against the petitioner to show that he has in any manner committed the above crime causing the death of the deceased, this Court is of the considered view the petitioner/Accused No.14 is entitled for grant of anticipatory bail.

9. Accordingly, the Criminal Petition is allowed and the petitioner/Accused No.14 shall be enlarged on bail in the event of his arrest subject to the following conditions:

i) The petitioner/Accused No.14 is directed to surrender before the Nizamabad Town-VI Police Station, Nizamabad District within one (01) week from today, and on such surrender, he shall be enlarged on bail on his executing personal bonds for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties to the like sum each, to its satisfaction.

ii) The petitioner/Accused No.14 shall appear before the concerned Station House Officer on every Monday and Friday between 10.30 AM and 01.00 PM for a period of six (06) weeks or till filing of charge sheet whoever is earlier.

iii) The petitioner/Accused No.14 shall abide by the other conditions stipulated in Section 438(2) Cr.P.C.

10. As a sequel thereto, miscellaneous applications, if any pending, shall stand closed.

D. NAGARJUN, J

Date : 18.01.2023
Ndr