

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION Nos.1646 and 1671 of 2023

COMMON ORDER:

Heard Sri Durga Prasad, learned counsel, who argued on behalf of Sri K.V.Sudhakar, learned counsel on record for the petitioners, as well as learned Additional Public Prosecutor who is representing the respondent-State.

2. Seeking pre-arrest bail, the present Criminal Petitions are filed under Section 438 Cr.P.C. on behalf of the petitioners, who are arrayed as accused in Crime No.29 of 2005 of Utkoor Police Station, Mahabubnagar District.

3. Stating that the petitioners have not committed any offences whatsoever, learned counsel for the petitioners submits that the case was registered in the year 2005 and later, the proceedings were closed as the culprits remained undetected. Learned counsel submits that after considerable time i.e., after lapse of 17 years, basing on the statement alleged to have been given by one Muddunuri Sheshaiah @ Sheshanna, the investigation was again taken up and now, Police are trying to arrest the petitioners. Learned counsel submits that the confessional statement of co-accused

implicating others is invalid in the eye of law and that apart, the person who gave the alleged confessional statement was also enlarged on bail by the Court of Principal District and Sessions Judge, Narayanpet, through orders in Crl.M.P.No.172 of 2022, dated 22.12.2022 and therefore, anticipatory bail may be granted.

4. The submission of the learned Additional Public Prosecutor, on the other hand, is that there were disputes between two groups and further, there was political rivalry, due to which, the petitioners waylaid and the deceased-Kanakachary was killed.

5. It is not in dispute that the case was registered in the year 2005. The prosecution version is that the defacto complainant found an unknown male body near the agricultural fields of one Kursu Doddi Kistaiah and also found that the deceased-Kanakachary sustained injury with an axe. He further found that the axe which was present over the neck of the deceased-Kanakachary contained the words "Narsa Kobra". On investigation, the particulars of the deceased-Kanakachary could be ascertained, but Police could not trace out the assailants. In the year 2022, the accused by

name Muddunuri Sheshaiah @ Sheshanna was arrested in connection with another case and when his confessional statement was recorded, he gave statement about the commission of the present offence and on that, the case was re-opened and further, investigation was taken up.

6. By the contents of the final report filed, it is clear that the statements of material witnesses were recorded long back. Also, except the alleged confessional statement of one Sheshanna, no other incriminating material is brought to the notice of this Court regarding the involvement of the petitioners in the commission of offence. Having considered these facts, this Court is of the view that the request of the petitioners can be honoured, however conditionally.

7. Resultantly, this Criminal Petition is allowed with the following conditions:-

- (i) The petitioners/accused are directed to surrender before the Court concerned within ten (10) days. On such surrender, they shall be enlarged on bail on each of them executing a personal bond for Rs.50,000/- (Rupees Fifty thousand only) with two sureties for the like sum each to the satisfaction of the Court concerned. The sureties are directed to submit

their two latest passport size photographs at the time of furnishing solvency. One such photograph is ordered to be pasted in the Surety Register against the name of the surety. The other photograph shall be kept in the case record concerned.

(ii) In case, the petitioners/accused hold passports, they are directed to surrender the same.

(iii) The petitioners/accused should not involve in any unlawful activity.

(iv) The petitioners/accused should afford all assistance for proper investigation of the case.

(v) The petitioners/accused should not cause the evidence of the offence disappear.

(vi) The petitioners/accused should not tamper with the evidence in any manner.

(vii) The petitioners/accused should not by way of inducement, threat or promise, dissuade any person who is acquainted with the facts of the case, from disclosing such facts to the Court or to the Police Officer.

(viii) The petitioners/accused should ensure their presence whenever required by the Court or Police.

(ix) The petitioners/accused shall not leave India without previous permission of the court concerned.

(x) The petitioners/accused shall report before the Station House Officer, Utkoor Police Station, Mahabubnagar District, on every Sunday and Thursday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) The petitioners/accused shall file separate affidavits before the court concerned disclosing the following particulars:-

- (1) Contact number
- (2) Mail address
- (3) Residential particulars.

In case, there is any change in the aforementioned details, the petitioners shall intimate the court concerned by giving fresh separate affidavits duly mentioning the change. They shall continue to do so till filing of the final report.

Any deviation of the above conditions would entitle the respondent to take appropriate steps for cancellation of the bail granted.

Dr. JUSTICE CHILLAKUR SUMALATHA

24.02.2023
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