

HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1681 of 2023

ORDER:

1. Heard the submission of Sri K.Laxmaiah, learned counsel for the petitioner as well as the learned Additional Public Prosecutor who is representing the Respondent-State.

2. Seeking pre-arrest bail, the present Criminal Petition is filed under Section 438 Cr.P.C. on behalf of the petitioner, who is arrayed as Accused No.3 in Crime No.42 of 2023 of Vemulawada Town Police Station, Rajanna Sircilla District.

3. Making his submission, learned counsel for the petitioner states that the petitioner is the mother of Accused No.1 and wife of Accused No.2. Learned counsel submits that as per the version of the prosecution, Accused Nos.1 & 2 attacked the husband of the defacto complainant and caused injuries, due to which he died and there is no involvement of the petitioner whatsoever. Learned counsel states that even as per the contents of the

complaint, the petitioner has only abused the family members of the defacto complainant. Learned counsel further contends that the petitioner is a blind woman suffering with permanent disability and therefore, anticipatory bail may be granted.

4. On the other hand, the submission of the learned Additional Public Prosecutor is that when the marriage of the daughter of the deceased is scheduled within two days, Accused Nos.1 & 2 killed him. Learned Additional Public Prosecutor also states that Accused Nos.1 & 2 were arrested and they are in judicial custody. He also submits that the investigation is still pending.

5. As per the versions of the prosecution, the deceased-Hanmandlu is the husband of the defacto complainant. The marriage of the younger daughter of the deceased was scheduled to be held on 10.02.2023. Accused Nos.1 & 2 have laid the raw material for construction of their house abutting the road. Though the deceased requested Accused Nos.1 & 2 to remove the stones and dust from the road, they failed to remove. On that, the deceased gave a

complaint to Municipal Officials. On 07.02.2023, the workers of the Municipality approached the place and they were removing those stones and dust from the road. On that, Accused Nos.2 & 3 abused the deceased and his family members. Accused No.2 threatened to kill the deceased. On the same day, at about 2.00 P.M., the petitioner, Accused No.1 and Accused No.2 approached the house of the deceased and scolded him. Accused No.1 caught hold of the throat of the deceased, pressed the same and beat him indiscriminately due to which, the deceased sustained bleeding injury over his mouth. His tooth got loosened. The neighbours came to his rescue. While the deceased was about to go to Police Station, he fell on the road and became unconscious. Immediately, he was shifted to Hospital, but he breathed his last.

6. The contention of the learned counsel for the petitioner, as earlier stated, is that though the petitioner accompanied Accused Nos.1 & 2 even as per the version of the prosecution, she only abused the deceased and his family members and she has neither intention nor

knowledge of committing any acts which ultimately resulted in the death of the deceased. Learned counsel for the petitioner produced the copy of the certificate to establish that the petitioner is suffering from low vision. As per the said certificate, the percentage of disability is 40%.

7. Thus, having considered the submission of the learned counsel for the petitioner regarding the merits of the case and also the disability, this Court is of the view that the request of the petitioner can be honoured, however, conditionally.

5. In the result, the Criminal Petition is allowed with the following conditions:

- (i) The petitioner/Accused No.3 is directed to surrender before the concerned Court within ten (10) days. On such surrender, she shall be enlarged on bail on her executing a personal bond for Rs.75,000/- (Rupees Seventy Five Thousand only) with two sureties for 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) The petitioner/Accused No.3 shall report before the Station House Officer, Vemulawada Town Police Station, on every Sunday and Thursday between 10.30 a.m. and 12:00 p.m. till filing of final report.
- (iii) The petitioner/Accused No.3 should not involve in any unlawful activity.
- (iv) The petitioner/Accused No.3 should afford all assistance for the proper investigation of the case.
- (v) The petitioner/Accused No.3 should not cause the evidence of the offence disappear.
- (vi) The petitioner/Accused No.3 should not tamper with the evidence in any manner.
- (vii) The petitioner/Accused No.3 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) In case the petitioner/Accused No.3 holds a passport, she shall surrender the same.

- (ix) The petitioner/Accused No.3 should ensure her presence whenever required by the Court or Police.
- (x) The petitioner/Accused No.3 shall not leave India without previous permission of the Court concerned.
- (xi) The petitioner/Accused No.3 shall file an affidavit before the Court concerned disclosing the following particulars:-
 - (1) Contact number
 - (2) Mail address
 - (3) Residential particulars.

In case, there is any change of the aforementioned details, the petitioner shall intimate the court concerned by giving a fresh affidavit duly mentioning the change. She 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 pre-arrest bail granted.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date:24.02.2023
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