

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.2223 of 2023

ORDER:

1. Heard Smt.Ayesha Saba, 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.6 in Crime No.78 of 2023 of Ibrahimpatnam Police Station.
3. Making her submission, learned counsel for the petitioner contends that neither the petitioner nor the other accused had any intention to kill the alleged injured and therefore, Section 307 IPC does not attract to the case facts. Learned counsel further submits that the name of the petitioner was not mentioned in the First Information Report, however, as an afterthought, his name was included. Learned counsel further submits that there was free fight between two groups and in the said free fight, the defacto complainant and his brother sustained injuries and having regard to those facts, anticipatory bail may be granted.

4. The submission of the learned Additional Public Prosecutor, on the other hand, is that one of the injured sustained one grievous injury and one simple injury and the other injured sustained three simple injuries. Learned Additional Public Prosecutor also states that thirteen witnesses were examined till now.

5. As per the contents of the complaint, there was rivalry between two groups and therefore, Accused No.1, along with others, attacked the defacto complainant and others with sticks and also bricks and caused injuries. Whether the case falls within the ambit of Section 307 IPC cannot be discussed and decided as the investigation is still pending and this is not the forum to render decision. So far as the allegations against the petitioner are concerned, as there are no grave allegations, this Court is of the view that the request of the petitioner can be honoured, however, conditionally.

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

- (i) The petitioner/Accused No.6 is directed to surrender before the concerned Court within ten (10) days. On such surrender, he shall be enlarged on

bail on his executing a personal bond for Rs.30,000/- (Rupees Thirty 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.6 shall report before the Station House Officer, Ibrahimpatnam 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.6 should not involve in any unlawful activity.
- (iv) The petitioner/Accused No.6 should afford all assistance for the proper investigation of the case.
- (v) The petitioner/Accused No.6 should not cause the evidence of the offence disappear.
- (vi) The petitioner/Accused No.6 should not tamper with the evidence in any manner.
- (vii) The petitioner/Accused No.6 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.6 holds a passport, he shall surrender the same.
- (ix) The petitioner/Accused No.6 should ensure his presence whenever required by the Court or Police.
- (x) The petitioner/Accused No.6 shall not leave India without previous permission of the Court concerned.
- (xi) The petitioner/Accused No.6 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. He 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:10.03.2023
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HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No. 2223 of 2023

Date:10.03.2023

ysk