

THE HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

CRIMINAL PETITION No.4662 OF 2023

ORDER:

This Criminal Petition is filed under Sections 437 and 439 of Code of Criminal Procedure, 1973 seeking to enlarge the petitioner/accused on bail in connection with Crime No.12 of 2023 of Kondurg Police Station, Cyberabad Commissionerate, registered for the offences punishable under Sections 304 Part II, 279 of Indian Penal Code and Section 180 of Motor Vehicle Act.

2. Heard learned counsel for the petitioner/accused and learned Additional Public Prosecutor representing the respondent-State. Perused the record.

3. The case of the prosecution is that on 25.01.2023 at about 4.00 PM, while the petitioner herein, along with one Thadakala Raju, was proceeding to their agricultural land in a Tractor bearing No.TS 31 ETR 7311, the petitioner drove the tractor in rash and negligent manner and drove the Tractor over the pile of cotton sticks, as a result, both of them fell down on the ground and the tractor engine fell over Thadakala Raju. Due to which the said Thadakala Raju sustained severe injuries

and died instantaneously. Initially, as per the contents of the written complaint, the Police, Kondurg, registered a case in Crime No.12 of 2023 for the offence under Section 304-A I.P.C. Subsequently, after recording the statements of witnesses during inquest, the Section of law was altered from Section 304-A I.P.C. to that of Sections 304 Part II, 279 I.P.C., and 180 of Motor Vehicle Act, as the deceased himself drove the Tractor in rash and negligent manner and the petitioner herein being the owner of the Tractor allowed the deceased to drive the Tractor in spite of having knowledge that the deceased was not perfect in driving the Tractor.

4. Learned counsel for the petitioner submits that the petitioner has not committed any offence as alleged and that the proviso of Section 304 Part II is not applicable to the present case as there is no negligence or rash act on the part of the petitioner and even as per the case of the prosecution, the petitioner was just sitting beside the deceased, who drove the vehicle at the time of incident, therefore, the act of negligence or rash is not attracted against the petitioner and prayed to enlarge the petitioner on bail.

5. Learned Additional Public Prosecutor opposed the bail stating that the investigation is still pending.

6. As seen from the Remand Report, initially a case was registered against the petitioner herein for the offence punishable under Section 304-A I.P.C., later basing on the statements of witnesses during the course of investigation, the Section of Law was altered from Section 304-A I.P.C. to that of Sections 304 Part II, 279 I.P.C. and Section 180 of Motor Vehicle Act.

7. The only allegation against the petitioner is that he allowed the deceased to drive the Tractor in spite of having knowledge that the deceased was not perfect in driving the Tractor. The petitioner has been in judicial custody since 17.03.2023. As per the Remand Report, material witnesses were already examined. Since the material portion of investigation was completed, the question of tampering with the evidence or influencing the witnesses does not arise. Therefore, the petitioner is ordered to be released on bail on the following conditions:

- i) The petitioner/accused is directed to be released on bail on his executing personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two

sureties for like sum each, to the satisfaction of learned Judicial Magistrate of First Class, Shadnagar.

- ii) On such release, the petitioner/accused shall appear before the Investigating Officer twice in a month i.e. on every first and third Monday between 10.00 A.M. and 05.00 P.M, for a period of three months or till filing of the charge sheet, whichever is earlier.
- iii) The petitioner shall cooperate with the Investigating Officer in investigating the case and shall not leave the territorial jurisdiction of the Court concerned without prior permission.
- iv) The petitioner/accused shall comply with the conditions as laid down under Section 437 (3) of Cr.P.C.

Accordingly, the Criminal Petition is allowed.

JUSTICE SAMBASIVA RAO NAIDU

18th May, 2023.

Note: Issue CC by today.
B/o.
SVL/DUA

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18th May, 2023.

SVL/DUA