

THE HONOURABLE SRI JUSTICE M. LAXMAN

CRIMINAL PETITION No.4810 OF 2023

ORDER:

1. This petition is filed seeking to grant regular bail under Sections 437 and 439 of Criminal Procedure Code, 1973 (Cr.P.C). The petitioner is accused No.8 on the file of the IX Additional District and Sessions Judge (FTC), Ranga Reddy District at LB Nagar in connection with Crime No.592 of 2020 of Gachibowli Police Station, Cyberabad. The offences alleged against the petitioner are under Sections 120 B(1), 302, 364, 379, 448, 449, 341, 342, 352, 323, 506 read with 34 of Indian Penal Code.

2. The sum and substance of case of the prosecution is that LW.1 is daughter of accused No.1. Deceased and LW.1 fell in love and they married. They belong to different castes. There were efforts by accused to convince the deceased and LW.1 to part away, such efforts become futile. Therefore, accused No.1 allegedly conspired with other accused to eliminate the deceased. In pursuance to their conspiracy, all the accused went to the house of the deceased who was staying with LW.1 in a rented portion in London Kids Play School, TNGO's Colony,

Phase-II, Gachibowli and forcefully shifted them in the car of accused No.8, which was driven by accused No.17. Accused No.9 was also in the car. All the accused entered into Outer Ring Road and when they reached near Gopanpally X Road, they taken turn. Therefore, the deceased and LW.1 entertained doubt and immediately the deceased called to his father and they got down from car and tried to fled away. Then the deceased was shifted into a car of accused No.1. In the said car, accused Nos.5 and 6 were also present. They went to the Outer Ring Road through Kollur gate and get down at Patancheruvu exit point. They further took the deceased towards Zaheerabad through Pothareddy Pally X Roads, Sadashivapet, Raikode and returned to Sangareddy Outskirts. They filled fuel at Isnapur H.P. Petrol Pump, Muttanigi in the car. Accused No.1 purchased a jute rope in S.R.R traders, Chimnapur village to murder the deceased by strangulation. They also purchased the liquor in the New Bhavani Wines and also purchased mixture and water bottle in Ramchander Balaji Sweet Shop. Then, they returned back towards Sangareddy. All of them consumed liquor and accused No.1 tried to convince the deceased to leave LW.1 and threatened to kill him if he

does not agree with him. The deceased refused to leave LW.1, on which, accused Nos.5 and 6 tied hands and legs of the deceased with jute rope. Accused No.1 drove the car towards open plots in Kistaiahgudem village before Sangareddy town and pulled out the deceased from the car. Accused Nos.1 and 5 strangled the deceased with jute rope, while accused No.6 caught hold the deceased and committed theft.

3. Learned counsel for the petitioner/accused No.8 contended that petitioner is maternal uncle of LW.1 and his role is similar to the role of accused Nos.9,10,11, 12, 13, 15, 16, 17 and 18. According to him, the prosecution went to Supreme Court challenging the release order of accused Nos.9 and 10, they were unsuccessful. Therefore, applying the parity principle, he is entitled to grant bail.

4. On the other hand learned senior counsel appearing for Smt.Tekuru Swetch, learned counsel representing impleaded party - Victim submitted that the parity principle cannot be applied basing on the above bail orders of accused Nos.9 and 10 for the reason that the Apex Court while disposing the appeal filed against such order has observed that such findings cannot

be basis for considering the bail of other accused. It is further submitted that the petitioner/accused No.8, who is maternal uncle of LW.1 has active role in the conspiracy and he cannot stand on par with the other accused. It is further submitted that there is material evidence to show that the petitioner/accused No.8 is prime accused with the alleged offences. There was active conversation in between accused Nos.1, 4 and 8 and shows that petitioner/accused No.8 has conspiracy role. It is further submitted that prior to the incident, all the properties, which were standing in the name of LW.1 got transferred in the name of accused No.8 and it is also one of the additional circumstance establish petitioner/ accused No.8 role in the conspiracy.

5. Learned Additional Public Prosecutor opposed the bail petition contending that previously attempt was made to murder the deceased by engaging another person; such attempt was failed as he has not executed the offence. For that FIR was registered in Crime No.623 of 2020 of PS Gachibowli. Therefore, it is also additional circumstance to establish that the petitioner/accused No.8 has a conspiracy role.

6. A glance of the prosecution case as made out from the charge sheet is that initially the deceased and LW.1 were lifted from the house in the car of accused No.8 by all the accused and accused No.17 drove the said car. Accused No.9 sat in the front seat. Accused No.8 sat along with LW.1 and the deceased. They travelled on the Outer Ring Road, when they reached near Gopanpally X Road, other cars filled with other accused also followed them. When they are taken turn in Outer Ring Road, the deceased and LW.1 entertained suspicion and they get down from the car of accused No.1 and tried to run away. The deceased was caught hold and he was shifted to the car of accused No.1, in which accused Nos.1, 5 and 6 were there. Thereafter, they went to different places and they purchased jute rope to execute the murder by strangulation; ultimately they have strangled the deceased.

7. The allegations also show that it is the accused No.1 who has paid money to accused Nos. 5 and 6. There is no material to show that the petitioner/accused No.8 had any conversation with accused Nos.5 and 6 who allegedly engaged to execute the murder. It is the accused No.1 allegedly had contact with

accused Nos.5 and 6. In the previous offences also, the allegation is that accused No.1 contacted one Shankar for execution of the offence at the instance of accused No.8. There is no material in the charge sheet or additional material to show that the petitioner/accused No.8 had any active role in the conversation with one Shankar; without that it cannot be said that accused No.8 had any role of conspiracy.

8. Further, there is also no other material in the present case to show that there is any strong circumstances to demonstrate sharing of intention to commit murder, purchase of rope subsequently indicates absence of any prior conception of execution of murder so that intention can be attributed to the present petitioner/ accused No.8 while the deceased and LW.1 lifted from the home.

9. Similar is the allegation against accused No.9 along with other accused who were enlarged on bail. Though *Strict sensu*, the bail order of previous accused cannot be basis to consider, plea of other accused. This Court must examine whether all the allegations stands on par with the accused who enlarged on bail.

If both are standing on same pedestal, grant of bail to one and rejection of another bail is treating equals as un-equals.

10. In the present case, there is allegation of threatening the witnesses. When the alleged threat was there, the petitioner was already in jail. There is no chance of threatening. It is also stated that the prime witnesses were already examined in the trial. This Court feels that detention of the petitioner/accused No.8 further more is unwarranted.

11. Accordingly, the Criminal Petition is allowed and the petitioner/accused No.8 shall be released on bail on the following terms and conditions:

- (i) The petitioner/accused No.8 shall be released on bail on his executing a personal bond for Rs.50,000/- (Rupees twenty five thousand only) with two sureties for a like sum each to the satisfaction of the IX Additional District and Sessions Judge (Fast Track Court), Ranga Reddy District at LB Nagar as soon as the recording of evidence of the witnesses upto LW.10 is completed.
- (ii) That does not mean that LWs.4 to 10 shall be examined by the prosecuting agency. The prosecuting agency would always be at liberty either to give up their evidence or to examine those witnesses.

- (iii) However, as soon as his requirement before the Court for attendance to give evidence is completed, the petitioner shall be set at liberty on his executing the required bond narrated supra.

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

JUSTICE M. LAXMAN

14.06.2023
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