

THE HONOURABLE SRI JUSTICE M.LAXMAN

CRIMINAL PETITION NO.5509 OF 2023

ORDER :

1. This petition is filed under Section 438 of Criminal Procedure Code, 1973 (Cr.P.C) seeking anticipatory bail to the petitioners, who are accused Nos.1 and 2 in Crime No.71 of 2023 of Narketpally Police Station, Nalgonda District. The offence alleged against the petitioners is under Section 304-II read with Section 34 of the Indian Penal Code.

2. The allegation is that Accused No.1 who is the driver of the Swift Dzire car in a drunken state in a rash and negligent manner, hit to the pedestrian, resulting instantaneous death. Initially, FIR was lodged under Section 304(A) of IPC and subsequently an alteration was made to Section 304-II of IPC. As per the alteration memo, accused No.2 who is the owner of the car had knowledge about the drunken state of accused No.1 and allowed him

to drive the vehicle, as such accused No.2 was also implicated in the present case.

3. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent - State.

4. As seen from the alteration memo and the investigation done, there is no material that accused Nos.1 and 2 drunk together and there is also no material that accused No.2 had a conscious knowledge about drunken state of accused No.1 and allowed accused No.1 to drive the vehicle. Accused No.2 was implicated only on the ground that he was also drunk when the incident was occurred. There is no witness to state that accused Nos.1 and 2 drunk and traveled together. Therefore, accused No.2 cannot be said to be abetted. *Prima facie*, the evidence shows that it is accused No.1 who drove the vehicle in a drunken condition. Therefore, I do not find any merit to grant bail to Accused No.1.

5. Accordingly, the criminal petition is partly allowed and the petitioner - Accused No.2 is granted bail on the following terms and conditions:

- (i) The petitioner-accused No.2 is enlarged on bail in the event of his arrest in connection with FIR No.71 of 2023 on the file of the Station House Officer, Narkatpally Police Station, Nalgonda District on his executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties to the like sum each to the satisfaction of concerned Station House Officer.
- (ii) The petitioner-accused No.2 shall abide by the other conditions stipulated in Section 438 (2) Cr.P.C and co-operate with the Investigating Officer in investigating the case.

6. So far as petitioner - Accused No.1 is concerned, the criminal petition is dismissed.

JUSTICE M. LAXMAN

Date: 03.07.2023
pld/ns

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