

THE HON'BLE SRI JUSTICE M.LAXMAN
CRIMINAL PETITION No.6167 of 2023

ORDER:

1. This petition is filed under Sections 437 and 439 of Criminal Procedure Code, 1973 (Cr.P.C) seeking to grant regular bail. The petitioner is arrayed as accused No.2 in Crime No.592 of 2020 of Gachibowli Police Station, Cyberabad District. The offences alleged against the petitioner are under Sections 120b(1), 302, 364, 379, 448, 449, 341, 342, 352, 323 and 506 read with Section 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 all the accused to convince the deceased and LW.1 to part away, but such efforts went in vain. Therefore, accused No.1 allegedly conspired with other accused to eliminate the deceased. In pursuance of 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 strangulated the

deceased with jute rope, while accused No.6 caught hold the deceased and committed theft.

3. The contention of learned counsel for the petitioner is that the petitioner/accused No.2 nothing to do with the execution of offence but it is accused Nos.5 and 6 who allegedly changed the plan and executed the offence. The role of the petitioner/accused No.2 was as similar to the other accused, who were already granted bail, but the additional thing is that he is the father of the victim/LW1. According to him, the conclusion of the trial in future is bleak and shall be given benefit, which was granted to other accused.

4. The learned Additional Public Prosecutor appearing for the respondent-State opposed to grant bail contending that the petitioner is not similar to the other accused, who were granted bail and he is the main conspirator and engaged hired killers for execution of offence by paying money. Therefore, he cannot be equated with the other accused, who were granted bail.

5. Learned counsel representing for the victim/LW1 has contended that the petitioner is the father of the victim and from the beginning he had been making attempts to eliminate the deceased. On two occasions, the petitioner/accused No.2 was

unsuccessful and on third occasion offence was executed. There is ample evidence to show that he had a predominant intention to take away the life of the deceased. Further, the evidence on record also shows that the petitioner is a conspirator and paid money to hired killers and he is responsible for the offence. Therefore, he cannot be equated with the other accused.

6. Heard the learned respective counsel and perused the material placed on record.

7. On a perusal of the investigation report filed by the police demonstrates that all the culprits, who are involved in the offence are common placed from the stage of kidnapping to the stage of Gopanpally X Road. Nearly 18 persons including relatives of the petitioner went to the house of the deceased and victim/LW1. They all together went in two cars without any other incriminating objects. The house of the parents of the deceased was also located at Serilingampally. The deceased and LW1 were forcefully taken from the house to outer ring road. The investigation report also shows that there is only confession on record to show that amounts were paid by the petitioner. There is no other evidence except confessions collected by the investigating agency.

8. The case as set up by the investigating agency after deceased was parted from Gopanpally X Road demonstrates that accused No.1 had been convincing the deceased to drop his relationship with LW1. No weapon was used for murder till the rope was purchased on the way after they departed from Gopanpally X Road. There is no direct conversation of this petitioner/accused No.2 with hired killers i.e., accused Nos.5 and 6 at any point of time. It is accused No.1, who allegedly engaged accused Nos.5 and 6 through accused No.4. The call data collected by the investigating agency also shows that the petitioner is not in direct contact with any hired killer. There is also no direct evidence for attributing the petitioner for payment of amounts to the hired killers. There are no criminal antecedents on record of hired killers. When all together went to the house of the deceased, it appears that there was no predominant intention of murder of the deceased. It has become the sole object for the accused to kill the deceased when the deceased failed to hear repeated requests made by the accused No.1, as set by the prosecution case. Except the petitioner is the father, no other additional incriminating evidence found to differ with the other accused, who have been granted bail. Therefore, the petitioner is also entitled for similar benefit, which is granted to the other accused other than accused Nos.1,

4, 5, 6, and 7. Therefore, this Court is inclined to allow this petition on certain conditions.

9. Accordingly, the Criminal Petition is allowed and the petitioner/accused No.2 shall be released on bail on the following terms and conditions:

- (i) The petitioner/accused No.2 shall be released on bail on his executing a personal bond for Rs.50,000/- (Rupees Fifty 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) The petitioner/accused No.2 shall not attempt to influence any of the witnesses, whose prosecution is still not examined. If any such attempts are made, the prosecution given liberty to seek revocation of the bail, which is granted.
- (iv) The petitioner/accused No.2 shall not try to give any threatening or any kind of coercion to the victim/LW1/wife of the deceased.

(v) 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

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