

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NOS.7083 AND 9618 OF 2023

COMMON ORDER:

1. Criminal Petition No.7083 of 2023 is filed by A8 and A12 and Criminal Petition No.9618 of 2023 is filed by A11 for grant of bail in SC No.8 of 2023, as such, both the Criminal Petitions are disposed by way of this Common Order.

2. The brief facts of the case of the prosecution are that Accused Nos.1 to 3 hatched a plan to murder the deceased Mulagundla Mallareddy because of land disputes leading to various civil suits and criminal cases. They in turn contacted accused No.4 to execute their plan and agreed to pay Rs.18 lakhs to Accused No.4 in order to commit the offence. Further accused No.4 contacted accused No.6 and his gang members viz., accused Nos.8, 9 and 12 and gave the said contract of murder of the deceased to them. Accused No.1 informed the plan of murdering the deceased to his son viz., accused No.5, who in turn agreed to the conspiracy. But Accused Nos.6, 8, 9 and 12 dodged time for almost one year. Then because of the pressure from accused Nos.1 to 3, Accused No.4 introduced accused No.7 to execute the murder and they paid 2.5 lakhs as an advance. Further Accused No.4

introduced Accused No.11 to accused No.6 and ask them to add him in their gang in execution of the murder of the deceased. The Accused No.10 provided the vehicle to the hired gang for the purpose of keeping track of the movements of the deceased. On the day of offence accused No.9 and 14 observed the movement of the deceased and passed the information to the other gang members viz., accused Nos.6, 8, 11 and 12, who in turn murdered the deceased at the Pandikunta Cross Road at around 18.40 hrs. Near the Pandikunta Cross Road, A11 with the white colour Maruthi Swift Dzire Car bearing No.TS 25T 2512 hit the deceased car (Innova Crysta bearing No.TS-03-FA-4556) on the rear side and when the deceased got down from the car to enquire about the hitting of the car, A11 approached the deceased and stabbed him. A6, A8 and A12 who have taken the positions in the nearby area also came out. A8 and A11 dragged the deceased to the nearby bushes and stabbed him to death whereas the other accused A6 and A12 confined the complainant and aided A8 and A11 in murdering the deceased.

3. Learned counsel appearing for the petitioners would submit that even according to the case of the prosecution, the main conspirators, who are A1 to A3 had hatched plan to murder the

deceased were enlarged on bail. A7 and A10 were granted bail by this Court in CrI.P.Nos.1875 and 651 of 2023 respectively. The case of the petitioners is standing on the same footing as that of A7 and A10. A1 and A2 were granted bail on 27.04.2023 in CrI.P.Nos.3759 and 4064 of 2023. A3 and A4 were also granted bail on 04.05.2023 by this Court. A9 and A14 were also granted bail by this Court in CrI.P.No.4688 of 2023 on 18.05.2023. Therefore, the petitioners are entitled for bail, as they are in jail since fourteen months.

4. On the other hand, Sri V.Raghunath, learned Senior Counsel would submit that it is a case of brutal murder and petitioners were in fact present at the scene and they have committed murder of the deceased. They were hired by A1 to A3, such hired killers cannot be granted relief of bail.

5. This Court had earlier directed the learned Sessions Judge to provide report regarding the trial and also directed the Court to frame charges on or before 16.10.2023. Learned Principal District Judge has sent a report, which reads as follows:

“Anent to the subject cited, I am directed vide reference cited to frame charges in S.C.No.08 of 2023 on the file of this Court on or before 16.10.2023 as the some of the accused are in jail. The case is coming for hearing on framing of charges.

In this regard, I submit that the order under reference is received in this Court on 03.10.2023 and by that time CrI.M.P.No.558 of 2023 under Section 277 of Cr.P.C to discharge the accused No.2

from this case and also CrI.M.P.No.601 of 2023 filed under Section 91 of Cr.P.C seeking direction from the Airtel Telecom Provider with regard to preservation and location report are pending. ON 04.10.2023 and 06.10.2023, the petitioner/A2 requested time as his counsel is suffering from fever and as such, conditional order was passed with a direction to submit the arguments positively on 09.10.2023 and on 09.10.2023 heard arguments and on 11.10.2023, both the petitions were disposed off.

I am to further submit that on 06.10.2023, A15 in the above case filed a petition under Section 227 Cr.P.C vide CrI.M.P.No.659 of 2023 for discharging him and is posted for counter on 09.10.2023 and Spl.P.P filed counter on 09.10.2023. On 11.10.2023 and 13.10.2023 the petitioner/A15 taken adjournment on the ground that the junior counsel filed the petition and senior counsel has to argue the matter. On 13.10.2023 conditional order was passed with a direction to submit the arguments positively on 16.10.2023. On 16.10.2023, heard the counsel for A15 and also Special P.P and the counsel for A15 also filed written arguments. The said petition vide CrI.M.P.No.659 of 2023 is posted for orders on 17.10.2023.

I am to further submit that on 13.10.2023, A10 in the above case filed a petition under Section 227 Cr.P.C vide CrI.M.P.No.685/2023 for discharging him and is posted for counter on 16.10.2023. On 16.10.2023 Special P.P filed counter and A10 requested time stating that his counsel is out of station. The Special P.P submitted his arguments and is posted to 17.10.2023 to hear the petition/A10 counsel.

I further submit that on 16.10.2023, A5 filed a petition under Section 309 of Cr.P.C requesting to adjourn the case for fifteen days as he has to go for bed rest due too suffering from bleeding problem and Special P.P requested time for filing counter and same is posted for counter of prosecution to 17.10.2023.

I submit that so far four discharge petitions under section 277 of Cr.P.C pertaining to accused Nos.A2, A3, A5 and A7 were filed and disposed off and petitions filed by the A2, A5, A8, A9 and A14 under Section 91 cr.P.C were also disposed off. The counsel for the accused Nos.15 and 10 again filed two discharge petitions under Section 277 of Cr.P.C vide CrI.M.P.Nos.659/2023 and 685/2023 which are pending.

I am further to submit that under the above circumstance, the charges could not be framed.”

6. Admittedly, all the other accused were granted bail and according to the prosecution case, A1 to A3 who had conspired to murder the deceased were also granted bail by this Court.

On questioning the learned Additional Public Prosecutor about the antecedents of these petitioners, it was informed that they are not involved in any previous cases.

7. As seen from the report of the learned Sessions Judge, there are several accused in the case and on the basis of one application or the other, framing of charges and examination of witnesses could not be taken up. Earlier some of the accused had filed transfer applications, which this Court had dismissed. Discharge applications were filed in the trial Court and the unsuccessful accused have informed the Court below that they intend to question the orders of refusing to discharge them. In the said back ground, it cannot be said that the examination of witnesses would be complete in the near future.

8. No doubt, the case is one of gruesome murder of an Advocate. Several persons were part of the conspiracy to murder the deceased. The Accused Nos.1 to 3, who according to the prosecution have masterminded and sought services of other accused in murdering the deceased were let off on bail and also the other accused, who were part of the criminal

conspiracy and played specific role in the commission of the offences were also let out on bail.

9. In view of above facts and circumstances, Criminal Petition No.7083 of 2023 is allowed with the following conditions:

(i). The petitioners/accused Nos.8 and 12 shall be enlarged on bail on their executing personal bonds for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each 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 petitioners/accused Nos.8 and 12 shall remain at their respective districts till conclusion of the trial proceedings. They shall appear before the Court concerned on every date of hearing till completion of trial proceedings.

(iii). The petitioners/accused Nos.8 and 12 shall abide by the other conditions stipulated in Section 437(3) of Cr.P.C

10. Keeping in view that A11, according to the prosecution, is the person who stabbed the deceased and later dragged into the bushes, prayer for grant of bail to A11 is refused at this stage. There are no changed circumstances in the case from 13.02.2023 when this Court had dismissed the bail application of A11. However, the petitioner is at liberty to move bail after changed circumstances. In view of the continued detention of A11, this Court deems it appropriate to direct the learned Sessions Judge to expedite the process of trial following the procedure under Section 309 of Cr.P.C.

11. Criminal Petition No.7083 of 2023 is allowed

12. Criminal Petition No.9618 of 2023 is dismissed.

K.SURENDER, J

Date: 06.11.2023

kvs

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NOS.7083 AND 9618 OF 2023

Dt. 06.11.2023

kvs

