

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION NO.9832 OF 2023****ORDER:**

1. This Criminal Petition is filed under Section 438 of Cr.P.C. by the petitioners/Accused Nos.4 and 5 seeking bail in the event of their arrest in connection with Crime.No.207 of 2023 on the file of Bandlaguda Police Station, Hyderabad, registered for the offence under Section 302 and 120(b) r/w. 34 of IPC.
2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent-State and perused the record.
3. The petitioners were arrested on 16.08.2023 on the allegation of abetting murder and for entering into a criminal conspiracy with A-1 and A-6 to commit murder of the deceased. Both A-1 and the deceased are rowdy sheeters. It is mentioned in the remand report that the deceased was forcing A-1 to have un-natural sex with him. When A-1 refused, the deceased started threatening A-1 saying that he would implicate him in a false case. A-1

decided to kill him and discussed with A-5, on which A-5 revealed that he along with A-2 to A-4 are already planning to eliminate the deceased. The same was informed to A-6. The deceased had committed un-natural sex with A-6. A-6 refused and told A-1. Thereafter, A-1 and A-6 planned to kill the deceased. It is the case that thereafter, A-2 to A-4 were also informed for the reason of deceased making adverse comments against them and when the deceased black mailed them, they parted with an amount of Rs.9 lakhs.

4. At the time of alleged incident, it is not the case that these petitioners were present. In pursuance of the plan to kill the deceased, a trap was laid and when the deceased went to the scene of offence, A-1 and A-6 were present and A-1 stabbed the deceased.

5. Learned counsel appearing for the petitioners would submit that apart from the confession of A-1, there is no other evidence which is collected by the Investigating Officer to implicate these petitioners. Only on the basis of said confession, the petitioners cannot be kept in jail.

Even according to the Police, the petitioners were not present when the incident had taken place.

6. On the other hand, learned Additional Public Prosecutor on instructions would submit that there are several cases pending against 1st petitioner/A-2 and they were part of conspiracy to kill the deceased, since the deceased is making false propaganda in social media (whatsapp, youtube etc).

7. Keeping in view that the basis for implication of these petitioners is confession and also that the petitioners were not present when the incident had taken place and further keeping in view the criminal antecedents of the deceased, the petitioners can be granted anticipatory bail, subject to following conditions:

- 1) The petitioners/Accused Nos.4 and 5 are directed to surrender before the Station House Officer, Bandlaguda Police Station, Hyderabad, on or before 17.10.2023. On such surrender, the said Station House Officer shall release the petitioners on bail, on his executing personal bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two sureties for a like sum each to his satisfaction.

2) On such release, petitioners/Accused Nos.4 and 5 shall appear before the concerned Station House Officer, for the purpose of investigation at 10: a.m. on every Monday, Wednesday and Saturday for a period of four weeks and thereafter, as and when required.

3) The petitioners/Accused Nos.4 and 5 shall abide by the other conditions stipulated in Section 438(2) of Cr.P.C and shall co-operate with the Investigating Officer in investigating the case.

8. Accordingly, this Criminal Petition is allowed. Miscellaneous applications, pending if any, shall stand closed.

Date: 10.10.2023
dv

K.SURENDER, J

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO. 9832 OF 2023

Dt.10.10.2023

dv