

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

CRIMINAL PETITION No.11369 OF 2022

ORDER:

This Criminal Petition is filed by the petitioners / accused No.2, 3 and 7 under Section 438 of the Criminal Procedure Code, 1973 seeking pre-arrest bail in Crime No.309 of 2022 of Station House Officer, Rajapur Police Station, Mahaboobnagar District, registered for the offences under Sections 448, 452, 436 read with Section 34 of the Indian Penal Code.

02. Heard Sri Shaik Ahmed Ali, learned counsel appearing on behalf of Ms. Vladimeer Khatoon, learned counsel for the petitioners / accused No.2, 3 and 7 as well as Sri T. V. Ramana Rao, learned Additional Public Prosecutor for the Respondent / State and perused the record.

03. According to Telugu written complaint, on 03.12.2022 on account of death of one Jayasree by hanging, it is suspected that the complainant's son Shiva is responsible for the death of Jayasree and on which the petitioners including other accused allegedly trespassed into

the house of the de-facto complainant by break opening the house and damaged household articles and entered into his son's TV shop and damaged items and accessories of TVs and brought them out of the shop and set fire in front of shop and also damaged the blue colour car.

04. Learned counsel for the petitioners/accused No.2, 3 and 7 has submitted that it is alleged that the accused persons have brought the TV accessories and other items out of the shop and set fire to them in front of shop and that even if the contents of the complaint are accepted to be true the offence under Section 436 of the Indian Penal Code is not made out and sought for grant of pre-arrest bail.

05. Learned Additional Public Prosecutor for the Respondent/State has submitted that the petitioners and other accused have damaged articles and set fire and the offences committed by the petitioner and other accused are grave and serious and sought for dismissal of bail petition.

06. On careful perusal of the contents of Telugu written complaint, the accused persons have damaged articles in the residential house of the de-facto complainant

and also went to TV shop of the de-facto complainant and damaged the TV articles and brought them out of the shop and set fire to them in front of shop by pouring petrol but not inside the house or shop. In order to attract offence under Section 436 of the Indian Penal Code the prosecution is expected to prove that the petitioners have committed mischief by fire or explosive substance with intent to destroy house or building which is used as a place of human dwelling.

07. In the case on hand, the alleged mischief of setting fire is outside the house or shop. Therefore, prima facie basing on the material available Section 436 of the Indian Penal Code is not applicable, the other offences alleged against the petitioners are punishable with less than seven years. There are no specific overtacts against the petitioners. Considering the petitioners / accused No.2, 3 and 7 are entitled for grant of pre-arrest bail.

08. Accordingly, the Criminal Petition is allowed, subject to the following conditions:

(i) The petitioners / accused No.2, 3 and 7 are directed to surrender before the Station House Officer, Rajapur Police Station, Mahaboobnagar District, within one week from today, and on such surrender, the petitioners / accused No.2, 3 and 7 shall be enlarged on bail on their executing personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties for a likesum each to the satisfaction of the Station House Officer, Rajapur Police Station, Mahaboobnagar District.

(ii) On such release, the petitioners / accused No.2, 3 and 7 shall appear before the Station House Officer, Rajapur Police Station, Mahaboobnagar District on every Monday and Friday between 10:00 AM to 12:00 PM., until filing of chargesheet.

(iii) The petitioners / accused No.2, 3 and 7 shall abide by the other conditions stipulated in Section 438 (2) of the Criminal Procedure Code.

As a sequel, pending Miscellaneous Applications in this matter, if any, shall stand closed.

DR. D.NAGARJUN, J

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Date: 18-Jan-2023
KHRM