

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.2168 of 2024

ORDER:

This Criminal Petition is filed by the petitioners – A1, A2, A4 and A5 under Section 438 of Code of Criminal Procedure for grant of anticipatory bail in the event of their arrest in Crime No.17 of 2024 on the file of Kubeer Police Station, Nirmal District, registered for the offences under Sections 323, 290, 506 read with Section 149 of IPC and Section 3(2)(v)(a) of SC & ST (Prevention of Atrocities) Act, 2015.

2. The case of the prosecution in brief was that on 15.02.2024 at 02:00 PM, the de-facto complainant lodged a report before the Police stating that they along with Hindu Vahini people conducted a Shobha Yatra in view of Sevalal Jayanthi and they erected a flexi on the name of Sevalal Maharaj at the highway leading to the local Medariwada and Sirpalli thandas. At about 10:00 PM on 15.02.2024, some persons belonging to Muslim Community, who were against their tribal community abused them in filthy language, attacked them by whirling knives and threatened to kill them. Out of fear, he fled from there and came to the PS and lodged the report.

3. Basing on the said report, the above crime was registered and A3, A6, A7 and A8 were arrested on 18.02.2024.

4. Heard the learned counsel for the petitioners – A1, A2, A4 and A5 and the learned Additional Public Prosecutor for the respondent – State.

5. Learned counsel for the petitioners submitted that as per the complaint or as per the remand report, the petitioners had not abused the complainant or others in the name of caste, as such, the offence under Section SC / ST (POA) Act would not attract against the petitioners. The other offences registered were punishable with only less than seven (7) years of imprisonment and prayed to grant anticipatory bail to the petitioners.

6. Learned Additional Public Prosecutor opposed grant of anticipatory bail to the petitioners. He submitted that Sections 323 and 506 were scheduled offences under SC / ST (POA) Act and as such the said offence also would attract.

7. Perused the record.

8. As the contents of the complaint as well as the remand case diary of A3, A6, A7 and A8 would not disclose that the petitioners had abused the de-facto complainant in the name of caste and no such words were also mentioned in the complaint as well as in the remand report, the application of SC / ST (POA) Act is doubtful. As all the other offences are punishable with less than seven years of imprisonment, it is considered fit to enlarge the petitioners on anticipatory bail on certain conditions.

9. In the result, the Criminal Petition is allowed and the petitioners – A1, A2, A4 and A5 are granted anticipatory bail, subject to the following conditions:

(i) The petitioners – A1, A2, A4 and A5 are directed to surrender before the Station House Officer, Kubeer Police Station, Nirmal District within a period of fifteen (15) days from the date of this order, and on such surrender the Station House Officer, Kubeer Police Station, Nirmal District shall release the petitioners on bail on their executing a personal bond for Rs.25,000/- (Rupees twenty five thousand only) each with two sureties for the like sum each to the satisfaction of said Station House Officer.

(ii) The petitioners – A1, A2, A4 and A5 shall comply with all the conditions laid down under Section 438(2) of Cr.P.C.

As a sequel, miscellaneous applications in this petition if any shall stand closed.

Dr. G.RADHA RANI, J

Date: 28th February, 2024
Nsk.