

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.3033 OF 2024

ORDER:

This Criminal Petition is filed by the petitioners – Accused Nos.3 to 5 under Section 438 of Code of Criminal Procedure, 1973 (for short “Cr.P.C”), for grant of anticipatory bail in the event of their arrest in Crime No.16 of 2024 of Bazarhatnoor Police Station, Adilabad District, registered for the offences punishable under Sections 458, 307, 324 read 34 of Indian Penal Code, 1860 (for short, ‘IPC’) and Section 3(2)(v) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, ‘SC ST (POA) Act’).

2. The case of the prosecution in brief was that the *de facto* complainant by name Kendre Shanta Bai lodged a report before the police on 24.02.2024 at 10:00 hrs stating that her son was having two wives and his first wife left the house about three months ago without informing anyone. Later, they came to know that she married another person and the matter was brought to the notice of the village elders, on which a panchayat was conducted and a document was executed in the presence of the elders and the said first wife was given divorce.

In that matter disputes were occurring in between her son Balaji and accused Nos.1 to 5. On 24.02.2024 at 8:00 A.M, the accused Nos.1 to 5 beat her son Balaji with a rod on his nose at Dignoor village. He escaped from the clutches of accused persons. On 24.02.2024, at 7:30 P.M, accused Nos.1 to 5 trespassed into their house with knives. She and her daughter in law and other inmates were in the house. Her son was not there. The said persons attacked her daughter in law with knives on her chest and caused bleeding injuries. When she tried to intervene, they also stabbed her due to which she sustained an injury to her left hand. The accused persons left the house by threatening to kill. Basing on the said report, the above crime was registered against accused Nos.1 to 6 for the above offences. Accused Nos.1, 2 and 6 were arrested on 25.02.2024.

3. Notice was issued to the respondent No.2 and it was served on respondent No.2 on 28.03.2024 but there was no representation for respondent No.2.

4. Heard the learned counsel for the petitioners-Accused Nos.3 to 5 and the learned Additional Public Prosecutor for the respondent-State.

5. Learned counsel for the petitioners/accused Nos.3 to 5 submitted that as per the remand case diary of accused Nos.1, 2 and 6, the role of the petitioners was stated that they had only pelted stones on the house of the complainant and it was accused Nos.1 and 2 who stabbed the victim/Gija Bai on her belly with a knife but not the petitioners herein. He further submitted that accused Nos.1, 2 and 6 were enlarged on bail and that the victim was discharged from the hospital on 01.03.2024 and prayed to grant anticipatory bail to the petitioners.

6. Learned Additional Public Prosecutor opposed grant of anticipatory bail to the petitioners stating that the injuries sustained by the victim were grievous in nature. She sustained an injury to her liver. The accused Nos.1, 2 and 6 were granted regular bail but the present petitioners were seeking anticipatory bail. He further submitted that there was a bar under Section 18 of the SC/ST Prevention of Atrocities Act to grant anticipatory bail

7. Perused the record.

8. As per the judgment of the Hon'ble Apex Court in

Prithvi Raj Chauhan v. Union of India and Others¹, if the complaint does not make out a *prima facie* case for applicability of the provisions of SC & ST (PoA) Act, 1989, the bar created by Section 18 and 18 A (2) would not apply. As such, this Court does not find any merit in the contention of the learned Additional Public Prosecutor with regard to the maintainability of the application under Section 438 Cr.P.C. As seen from the complaint, all the accused persons A1 to A6 trespassed into the house and attacked them but it was specified in the remand report of accused Nos.1, 2 and 6 about the overtacts committed by each of the accused persons. As the overtacts stated against the present petitioners were limited to pelting stones on the house of the *de facto* complainant, it is considered fit to enlarge the petitioners on anticipatory bail.

9. Accordingly, the Criminal Petition is allowed directing the petitioners/accused Nos. 3 to 5 to be released on anticipatory bail subject to the following conditions:

- i) The petitioners-Accused Nos.3 to 5 are directed to surrender before the Station House Officer, Bazarhathnoor Police Station, Adilabad District, within a period of (15) days from the date of this

¹ (2020) 4 SCC 727.

order. On such surrender, the said Station House Officer shall release the petitioners on bail, on their executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties for a like sum each to the satisfaction of the said Station House Officer.

- ii) The petitioners/Accused Nos.3 to 5 shall abide by the conditions stipulated in Section 438(2) of Cr.P.C.
- iii) The petitioners/Accused Nos.3 to 5 shall not interfere with the investigation in any manner. If any adverse report is received against them with regard to influencing or threatening the witnesses, the bail granted is liable to be cancelled.

Miscellaneous applications, pending if any, shall stand closed.

Dr. G.RADHA RANI, J

Date:03.04.2024

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