

THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

CRIMINAL PETITION No.5588 of 2024

ORDER:

This criminal petition is filed, under Section 438 of the Criminal Procedure Code, seeking grant of anticipatory bail to the petitioner/accused in Crime No.39 of 2024 of Kondapur Police Station, Sanga Reddy District, registered for the offence under Section 324 of the Indian Penal Code (for short 'IPC').

2. The case of the prosecution is that the *de facto* complainant lodged a complaint on 09.03.2024 stating that on 08.03.2024 at about 6.30 p.m. her husband stayed on the roof of their house and in the meanwhile, one villager by name Mr. Kondaiah called her husband downstairs; while they were talking, another villager by name Mr. Mala Narsimhulu (petitioner) due to grudge against the husband of the *de facto* complainant, who is responsible for his son's death about four months back, beat the *de facto* complainant's husband with an iron rod on his face; as a result, her husband received blood injury below the left eye. That one Mr. Ragulapally Narsimhulu rescued the husband of the *de facto*

complainant and Mr. Kondaiah was next to him; then the *de facto* complainant and her brother-in-law by name Mr. Nandu shifted him to Government Hospital at Sanga Reddy; the duty doctor referred her husband to a private hospital for better treatment and they shifted her husband to Srikara Hospital at Madhinaguda, due to which there was delay in lodging the complaint.

3. Heard learned counsel for the petitioner, learned Additional Public Prosecutor representing the respondent-State and perused the material available on record.

4. Learned counsel for the petitioner submitted that initially, the complaint was registered under Section 324 IPC and later the Section was altered to Section 326 IPC. The entire case is false and fabricated. The Police in collusion with the *de facto* complainant altered Section 324 IPC to Section 326 IPC to ensure that the accused does not get bail.

5. It is seen from the contents of the FIR that the *de facto* complainant alleged that the accused beat her husband with an iron rod on the face and he sustained bleeding injury below the left eye.

It is the contention of learned counsel for the petitioner that such injury cannot be caused with an iron rod. Moreover, there is no allegation that the injury is likely to cause death or is dangerous in any manner. It is further submitted that the petitioner is 74 years old and is suffering from old age ailments.

6. In the *prima facie* opinion of this Court, the offence under Section 326 IPC is not attracted and going by the contents of the FIR and also taking into consideration the age of the petitioner/accused which is stated to be 74 years, this Court is inclined to grant anticipatory bail to the petitioner/accused.

7. Hence, the criminal petition is allowed and the petitioner is directed to surrender before the Station House Officer, Kondapur Police Station, within 15 days from today. On such surrender, the petitioner shall be released on bail on his executing a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties for a like sum each to the satisfaction of the said Station House Officer. Further, on such release, the petitioner shall abide by the following conditions:

1. The petitioner shall make himself available for investigation as and when required by the police.
2. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
3. The petitioner shall not leave India without the prior permission of the Court.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

B. VIJAYSEN REDDY, J

Date: 30.05.2024
ssp/rrk