

HON'BLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.15383 OF 2024

ORDER:

Heard Ms. Ch. Jyoshna, learned Counsel for the petitioners and Mr. M. Rama Chandra Reddy, learned Additional Public Prosecutor appearing on behalf of respondent - State.

2. This application is filed seeking anticipatory bail. Petitioners herein are A-50, A-54 and A.65 in Crime No.153 of 2024 pending on the file of P.S. Bomraspet. The offences alleged against the petitioners herein are under Sections 191 (2), 132, 191 (3), 109, 121 (1), 126 (2), 324 (4) read with 190 of BNSS and under Section 3 of the Prevention of Damage to Public Property (for Short "PDPP Act").

3. As per the complaint, dated 11.11.2024 the allegations leveled against the petitioners herein are as follows:

On 11.11.2024 at about 11:00 AM, de facto complainant along with District Collector/LW-21 went to outskirts of Lagacherla village for the purpose of conducting public opinion program in view of proposed establishment of Pharma company. Bandobusth arrangements have been made as per the schedule.

The aforesaid officers reached at the aforesaid place for public opinion but no one was there to participate in the public opinion. A-2 requested the District Collector to conduct meeting in the village itself otherwise none of them will come to the said place of hearing. Believing the said version of A-2, District Collector/LW-21 and others proceeded to the Lagacherla village in vehicle bearing No.TS-07-EV-2929 belonging to District Collector and other officers also followed District Collector in their vehicles. The complainant along with Janaiah, D.S.P also proceeded to the village and found that as per the pre-plan, the villagers of Lagacherla, Rotibanda thanda, Pulicherlakunta thanda formed into an unlawful assembly with stones and sticks at around 12:20 PM, when the aforesaid officers reached the village, the persons including the petitioners/A-50, A-54 and A.65 and others formed into an unlawful assembly, stopped the vehicle of District Collector with slogans at Anjaneya Swamy Temple of the said village. When the District Collector and Special Officer Sri Venkat Reddy (LW-22) came out of their vehicles, the aforesaid accused attacked on the Special Officer. But sensing the same that they would

definitely attack with stones, sticks and red chilly power, de facto complainant and other officers shifted the District Collector immediately in his vehicle. In the meantime, the accused persons damaged the other vehicle belongs to the District Collector. When LW-22 tried to subsidize the issue, he was attacked by them with stones, sticks at Primary School due to which he received injuries on his left hand, back side, neck and right leg. The complainant rescued him from the clutches of the aforesaid persons otherwise they would have definitely killed him and in the said attack he has received injuries to his back, right side temple region and right knee. They have also attacked the complainant with sticks and stones. In the said incident Government vehicle bearing No.TS-36-N-3636 belongs to LW-22 was also found damaged.

4. On the said complaint lodged of LW-1-Sub Divisional Police Officer, Police Bomraspet registered the aforesaid crime against A.1 to A.13 and some others, for the aforesaid offences.

5. Admittedly, names of the petitioners herein/A.50, 54 and 65 are not there in the said complaint dated 11.11.2024. During the

course of investigation, the Investigating Officer included the names of the petitioners herein as A.50, 54 and 65.

6. In the counter filed by the learned Addl.Public Prosecutor, it is specifically stated that basing on the statements of L.Ws.7 and 17, names of the petitioners are included as A.50, 54 and 65.

7. In the light of the said contention, it is relevant to refer the statements of L.Ws.7 and 17. Both of them, did not state any specific role played by the petitioners herein. They simply referred the names of the petitioners along with other accused.

8. Thus, the aforesaid facts would reveal that the allegations leveled against the petitioners are general in nature. There are no specific overt acts against the petitioners and the role played by each of them in commission of offence.

9. There are 71 accused in the subject crime. The Investigating Officer has already arrested 34 accused and recorded statements of 25 witnesses. Thus, the investigation in the subject crime is almost completed.

10. As per the Medico Legal Patient Record dated 11.11.2024 of LW-22, the following injuries are mentioned:

- 1) Abrasion over (L) forearm 2 cm x 5 cm – Simple
- 2) Superficial abrasion over (L) Thigh – Simple
- 3) Small, multiple, superficial abrasion over ® Hand – Simple
- 4) Superficial abrasion over ® Calf - Simple
- 5) Multiple bruises over the back - Simple
- 6) Pain over (L) Little finger (?) – Fracture – Grievous
- 7) ® Sided diminished wearing and echoing – (?) – Grievous.

11. Thus, LW-22 received only 5 simple injuries and with regard to two injuries there was question mark before “fracture and grievous”. There is no explanation from learned Public Prosecutor with regard to the same.

12. *Prima-facie* the allegations are against A-2. There are no specific overt acts against the petitioners herein. The role played by each of the accused in commission of offence is not stated by any of the witnesses. The allegations are general in nature.

13. As discussed supra, the contents of complaint dated 11.11.2024 and statements of the witnesses recorded constitute the

ingredients of Section 109 of BNS cannot be decided by this Court in a petition filed under Section 482 of BNSS seeking anticipatory bail. This Court cannot do said exercise in the present application. This Court will consider the aforesaid aspects including the accusations against the petitioners, specific overt acts against them etc. Petitioners herein are agriculturists. 6th petitioner is a woman and she is aged about 58 years.

14. It is the specific contention of the learned counsel for the petitioners that so far police have arrested 34 accused and they have included 71 accused in Crime No.153 of 2024. The police harassed all the 34 arrested accused and they were subjected to 3rd degree methods under the guise of interrogation. The police have also tortured 34 arrested accused. Due to the said attitude of the police, male persons of the aforesaid three villages are not sleeping in the village itself.

15. It is relevant to note that in **SIDDHARAM SATLINGAPPA MHETRE V. STATE OF MAHARASHTRA AND OTHERS**¹ Hon'ble Apex Court laid down certain

¹ 2011 (1) SCC 694

parameters that can be demonstrative while dealing with anticipatory bail and it is relevant and same is extracted below:

“121. No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail. We are clearly of the view that no attempt should be made to provide rigid and inflexible guidelines in this respect because all circumstances and situations of future cannot be clearly visualized for the grant or refusal of anticipatory bail. In consonance with the legislative intention the grant or refusal of anticipatory bail should necessarily depend on facts and circumstances of each case. As aptly observed in the Constitution Bench decision in Sibbia's case (*supra*) that the High Court or the Court of Sessions to exercise their jurisdiction under [section 438](#) Cr.P.C. by a wise and careful use of their discretion which by their long training and experience they are ideally suited to do. In any event, this is the legislative mandate which we are bound to respect and honour.

122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
- iii. The possibility of the applicant to flee from justice;
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.

- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of [sections 34](#) and [149](#) of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;
- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
- x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

16. Hon’ble Apex Court further held that arrest should be the last option and it should be restricted to those exceptional cases where arresting the accused is imperative in the facts and

circumstances of that case. The Court must carefully examine the entire available record and particularly the allegations which have been directly attributed to the accused and these allegations are corroborated by other material and circumstances on record.

17. Hon'ble Apex Court further held that the aforesaid factors are only illustrative. It is difficult to clearly visualize all situation and circumstances in which a person may pray for anticipatory bail. If a wise discretion is exercised by the concerned judge, after consideration of entire material on record then most of the grievances in favour of grant of or refusal of bail will be taken care of. The legislature in its wisdom has entrusted the power to exercise this jurisdiction only to the judges of the superior courts. In consonance with the legislative intention, the discretion would be properly exercised.

18. Hon'ble Apex Court further held that irrational and indiscriminate arrest is gross violation of human rights.

19. It is also relevant to note that the Accused Nos.5, 6, 9, 10, 39 and 47 in the present crime vide Cr.153 of 2024 have already filed Criminal Petition vide Crl.P.No.14931 of 2024

seeking anticipatory bail. This Court on consideration of several aspects like contents of the complaint, stage of investigation, statements of witnesses, ingredients of Sections of BNS alleged, punishment prescribed and certain parameters laid by the Hon'ble Apex Court which can be demonstrative while dealing with anticipatory bail, vide order dated 18.12.2024, granted anticipatory bail to the petitioners therein.

20. The petitioners herein are labourers. They are also standing on the very same footing as that of the petitioners in Crl.P.No.14931 of 2024. To maintain parity, the petitioners herein are also entitled for grant of anticipatory bail.

21. In the light of the aforesaid discussion, this Court is inclined to grant anticipatory bail to the petitioners herein. Therefore, this application is allowed and it is directed that in the event of arrest of the petitioners herein in connection with Crime No.153 of 2024 pending on the file of Bomraspet Police Station, Vikarabad District, the petitioners shall be released on bail subject to compliance of the following conditions:

- (i) the petitioners – A.50, A.54 and A.65 herein shall be released on bail on their executing a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum each to the satisfaction of the said Investigating Officer in Crime No.153 of 2024 of P.S.Bomraspet;
- (ii) They shall appear before the Investigating Officer in Crime No.153 of 2024 of P.S. Bomraspet once in a week i.e., every Monday between 10.00 A.M. and 5.00 P.M till completion of investigation and laying of charge sheet;
- (iii) They shall co-operate with Investigation Officer by furnishing information and documents as sought by him in concluding investigation;
- (iv) They shall not directly or indirectly either interfere or influence the investigation;
- (v) They shall not involve in any criminal activities which will prejudicial to fair and expeditious trial.
- (vi) They shall not threat or influence the witnesses in any manner.

(vii) However, the investigating officer or other official or constables of the said P.S.Bomraspet shall not harass the petitioners in any manner.

K. LAKSHMAN, J

Date: 26.12.2024.

VVR