

HON'BLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.262 OF 2025

ORAL ORDER:

Heard Mr. R. Prasanth, learned Counsel for the petitioners and Mr. M. Ramachandra Reddy, learned Additional Public Prosecutor appearing on behalf of respondent - State.

2. This Criminal Petition is filed by the petitioners under Section – 478 and 480 of the Bharatiya Nagarik Suraksha Sanhita (for Short 'BNSS') seeking bail in connection with FIR No.153 of 2024 of P.S. Bomraspet Police Station, Vikarabad District.

3. The petitioners herein are arraigned as Accused Nos.32, 36, 48, 49, 55, 68 and 69 in the aforesaid Crime. The offences alleged against them are under Sections - 191(2), 191(3), 132, 109, 121 (1), 126 (2) and 324 (4) read with 190 of the Bharatiya Nyaya Sanhita (for Short 'BNS') and under Section 3 of the Prevention of Damage to Public Property, 1984 (for Short 'PDPP Act'). They were arrested on 05.12.2024, 16.11.2024, 16.11.2024, 05.12.2024, 19.11.2024, 05.12.2024 and 16.11.2024 respectively. The names of the petitioners are not mentioned there in the aforesaid complaint.

4. Basing on the confessional statement of co-accused and also statements of other witnesses recorded under Section 161 CrPC (Section 108 of BNSS), the Investigating Officer arraigned the petitioners as Accused Nos.32, 36, 48, 49, 55, 68 and 69 in the aforesaid Crime

5. Perusal of record would reveal that on the complaint lodged by Mr. N. Srinivas Reddy, Deputy Superintendent of Police, Vikarabad, a case in Crime No.153 of 2024 was registered by Bomraspet Police Station against the accused. In the said complaint, the names of petitioners herein are not mentioned. However, during course of investigation, the Investigating Officer included the names of petitioners in the said crime.

6. Mr. R.Prasanth, learned counsel for the petitioners, would submit as follows:

- i) There is no specific allegation against the petitioners herein, nor evidence to the effect that they were present at the meeting;
- ii) Due to political rivalry, the police registered the present crime against the petitioners;

- iii) There was no intention on the part of the petitioners to kill the District Collector (LW-21).
- iv) The Police included 71 accused, three villagers i.e., Lagacherla, Rotibanda Thanda and Pulicherlakunta Thanda.
- v) Police have arrested 37 accused and tortured them. Petitioners are agriculturists and are eking out their livelihood basing on agriculture.
- vi) The A.1, A.2, A.26, A.28, A.3, A.11, A.14 to A.20, A.23, A.25, A.29, A.30 and A.31, A.38, A.21, A.22, A.24 and A.27 were enlarged on regular bail by the II Additional Special Judge for Trial of SPE & ACB Cases – cum – Special Judge for Trial of Cases filed under PDPP Act and this Court granted anticipatory bail to A.5, A.6, A.9, A.10 A.39 and A.47, A.4, A.45, A.52, A.56, A.57, A.58, A.60, A.61, A.62, A.63, A.67 and A.71.
- vii) The petitioners will abide by any condition imposed by this Court, in they are enlarged on bail.

7. Whereas, the Sub-Divisional Police Officer, Tandur, filed counter stating that on consideration of the statement of L.Ws. 1 to 7

and 17, the Villagers of Lagacherla, the Investigating Officer included the names of the petitioners herein. The aforesaid witnesses specifically stated about the involvement of the petitioners in the subject crime. There are serious allegations against the petitioners and, therefore, they are not entitled for bail.

8. Learned Additional Public Prosecutor, on instructions, would submit that that petitioners and other accused formed into an unlawful assembly with a common intention of killing the officials who came for public hearing including LW-22. Accused No.1 rendered all types of assistance to the accused including financial, moral support etc. They came with stones, sticks and chilli powder with an intention to kill the officials including LW-21. It was an unlawful assembly and there was intention to kill the aforesaid officials. With the said intention only at the instance of A-1, A-2 informed the District Collector and other officials to come to the Village itself. Thus, there are serious allegations against all the accused herein. With the said contentions learned Public Prosecutor opposed the present application.

9. Thus, perusal of statements of LWs.1 to 7 and LW.17 would reveal that except stating the names of the petitioners, they have not stated specific role played by the petitioner in the commission of alleged offences. There are not specific overt acts against them. The allegations are general in nature. *Prima facie*, the allegations lack the ingredients of the aforesaid offences.

10. Section 191 of BNS deals with rioting and the same is extracted below:

- 1) Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.
- (2) Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
- (3) Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

11. Section 132 of the BNS deals with assaults or uses criminal force to deter any person from discharge of his official duty and the punishment prescribed is imprisonment of either description for a term which may extend to two years, or with fine, or with both.

12. Section 121 of the BNS deals with voluntarily causing hurt or grievous hurt to deter public servant from discharging his duty and the punishment for the same is shall not be less than one year but which may extend to 10 years and also liable to fine.

13. Section 126 of the BNS deals with wrongful restraint and punishment for the same is one month or with fine which may extend to Rs.5000/- or with both.

14. Section 324 of the BNS deals with Mischief and the punishment for the same is imprisonment for six months or with fine or with both.

15. Section 190 of the BNS says that every member of unlawful assembly guilty of offence committed in prosecution of common object.

16. Section 3 of the PDPP Act deals with Mischief causing damage to public property. The same is relevant and extracted below:

“(1) Whoever commits mischief by doing any act in respect of any public property, other than public property of the nature referred to in sub-section (2), shall be punished with imprisonment for a term which may extend to five years and with fine.

(2) Whoever commits mischief by doing any act in respect of any public property being

(a) any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy;

(b) any oil installations;

(c) any sewage works;

(d) any mine or factory;

(e) any means of public transportation or of tele-communications, or any building, installation or other property used in connection therewith, shall be punished with rigorous imprisonment for a term which shall not be less than six months, but which may extend to five years and with fine

Provided that the Court may, for reasons to be recorded in its judgment, award a sentence of imprisonment for a term of less than six months.”

17. Section 109 of the BNS deals with Attempt to Murder.

The same is relevant and it is extracted below:

1. Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

2. When any person offending under sub-section (1) is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death or with imprisonment for life, which shall mean the remainder of that person's natural life.

The punishment for the said offence is ten years of imprisonment and fine.

18. Thus, the punishment for the aforesaid offences except the offence under Section 109 of the BNS is below 7 years. Therefore, petitioners are entitled for benefit under Section 35 (3) of BNSS.

19. To constitute an offence under Section 109 of the BNS, there should be intention to kill or knowledge that such act would cause death of the person.

20. In the light of said submissions, it is relevant to note that to attract offence under Section - 109 of the BNS, there should be intention to kill. This Court has to see the nature of injuries, nature of weapons used by the petitioners. This Court has also to consider the parts on which the victims received the injuries. Of course, this is an application filed under Sections – 478 and 480 of the BNSS seeking regular bail. This is not an application filed under Section - 528 of

the BNSS to quash the proceedings in Crime No.153 of 2024. Therefore, this Court has to consider the nature of accusations levelled against the petitioners, injuries received by the victim and other factors as to whether the petitioners have intention to kill the victim, LW-22 and others.

21. Mr. R.Prasanth, learned counsel has produced Medico Legal Patient Record dated 11.11.2024 of LW-22, wherein 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.

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 Additional Public Prosecutor with regard to the same.

22. 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 considered by this Court in a petition filed under Sections – 478 and 480 of the BNSS seeking regular 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. As stated above, petitioners herein are agriculturists.

23. Learned Additional Public Prosecutor, on instructions, would submit that there are 71 accused in the present case and the investigating officer has arrested 37 persons and already recorded the statements of 28 witnesses. Thus, the investigation is almost completed.

24. As discussed above, *prima facie*, there are no specific overt acts against the petitioners and there are no specific allegations against them. Even the witnesses i.e. L.Ws.1 to 7 and 17 did not state about the specific role played by the petitioners in commission of the offence and their presence at the incident, the role played by the each of the accused in commission of the offences alleged, is not specifically explained. The allegations are general in nature. *Prima facie*, the allegations are against A.1 and A.2. Several accused were also enlarged on regular and anticipatory bail.

25. In the light of the aforesaid discussion, this Court is inclined to grant bail to the petitioners.

26. Therefore, this criminal petition is allowed. The petitioners herein are enlarged on regular bail on imposition of the following conditions:-

- i) Petitioner Nos.32, 36, 48, 49, 55, 68 and 69 shall furnish a personal bond for an amount of Rs.5,000/- (Rupees five thousand only) each with two (02) sureties each for like sum each to the satisfaction of the II Additional Special Judge for Trial of SPE & ACB Cases – cum – Special Judge for Trial – cum – Cases filed under PDPP Act.
- ii) They shall appear before the Investigating Officer in Crime No.153 of 2024 once in a week i.e., every Sunday between 10.00 A.M. and 5.00 P.N. till completion of investigation and filing of final report;
- iii) They shall co-operate with the Investigation Officer by furnishing information and documents as sought by him in concluding investigation;
- iv) They shall not interfere either with investigation in any manner, directly or indirectly.

They shall not involve in any criminal acts which will disturb peace and tranquility in the area.

- vi) They 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 from disclosing such facts to the Court or to any Police Officer.
- vii) However, the Investigating Officer or other Official or constables of the said P.S. Bomraspet shall not harass the petitioners in any manner.
- viii) The petitioners are directed not to provoke any co-accused.

As a sequel thereto, miscellaneous petitions, if any, pending in the criminal petition shall stand closed.

09th January, 2025

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K. LAKSHMAN, J