

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

CRIMINAL PETITION No.4891 of 2025

ORDER:

This Criminal Petition is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') by the petitioners/accused Nos.1 to 7, seeking anticipatory bail in Crime No.46 of 2025 of Komuravelli Police Station, Siddipet District registered for the offences punishable under Sections 109 read with Section 3(5) of the Bharatiya Nyaya Sanhitha, 2023 (for short 'BNS').

2. Heard Sri C.M.R. Velu, learned counsel for the petitioners, Sri Syed Yasar Mamoon, learned Additional Public Prosecutor appearing for respondent No.1-State and Sri C.Sharan Reddy, learned counsel for respondent No.2.

3. The case of prosecution in brief is that the complainant and his family members are having Ac.24-00 of land in Sy.Nos.824, 826, 827 and 828 in Nagapuri Village and they were in possession of the said land and pattadar passbooks were also issued in their favour. In 2016 and 2017, petitioner Nos.1 and 2 created fake documents and tried to grab Ac.7-24 guntas and several cases were filed against them and they were remanded. On 10.02.2025 at

about 11-30 hours, petitioner Nos.1 to 7 and 20 unknown persons attacked them and tried to kill them. Petitioner Nos.1 to 4 and others have attacked them with knife, axe and sticks and tried to kill them. Then he received grievous injury to his left eye. Basing on the said complaint, the present case was registered for the aforesaid offences.

4.1 Learned counsel for the petitioner submitted that the petitioners are owners and possessors of the agriculture land to an extent of Ac.7-24 guntas covered by Sy.No.824/A, 826/A1, 826/A2 and 828/A situated at Nagapuri Village, Cherial Mandal, Siddipet District and the same was purchased through registered sale deeds in the year 2016 and 2017 and since then they have been in possession and enjoyment of the said property and their names were mutated in the revenue records and pattadar pass books and title deeds were issued in their favour. When respondent No.2/*de-facto* complainant and others are trying to interfere with the above said property, petitioner Nos.1 and 2 have filed O.S.No.352 of 2018 on the file of Additional Junior Civil Judge at Jangaon for grant of perpetual injunction. Along with the said suit, they have filed I.A.No.573 of 2018 for grant of temporary injunction

and the said Court has granted temporary injunction on 28.11.2018, which was extended until further orders by its order dated 01.11.2019. The said suit was transferred to the Court of Additional Senior Civil Judge, Siddipet and re-numbered as O.S.No.48 of 2024 and the same is pending. He further submitted that the vendors of petitioner Nos.1 and 2 had also filed one suit i.e. O.S.No.31 of 2021 on the file of the Senior Civil Judge, Jangaon against respondent No.2 and others seeking declaration of title and perpetual injunction in respect of Ac.29-11 guntas and the said suit is also pending. Respondent No.2 with an intention to settle the civil dispute, lodged several complaints against the petitioners alleging that the petitioners are trespassing into their land and basing on the same, Crime No.38 of 2020, Crime No.65 of 2020 and Crime No.84 of 2023 were registered and the said criminal cases are pending.

4.2 He further submitted that respondent No.2 and another filed appeal before the Revenue Divisional officer, Siddipet under Section 5(5) of the Telangana Rights in Land and Pattadar Pass Books Act, 1971 questioning the revenue entries made in favour of petitioner Nos.1 and 2 and also

seeking cancellation of the pattadar pass books and the said case was transferred to the Special Tribunal, Siddipet and the same was numbered as 'F3/Spl.Tribunal/ Cherial/ 50/2021 and the Special Tribunal allowed the said appeal in favour of respondent No.2. Aggrieved by the above said order, petitioner Nos.1 and 2 have approached this Court and filed Writ Petition No.24233 of 2021 and the same was allowed by this Court *vide* order dated 22.07.2024 by setting aside the orders passed by the Special Tribunal and granted liberty to the petitioners as well as respondent Nos.4 and 5 to take all the pleas and grounds, which they have taken in the writ petition, in the pending suits.

4.3 He further submitted that even according to the allegations made in the present complaint dated 04.04.2025, the alleged incident was occurred on 10.02.2025, whereas respondent No.2 lodged the complaint on 04.04.2025 i.e., after lapse of more than 52 days without explaining any reasons for the said delay. Respondent No.2 and others have attacked petitioner Nos.1 and 2 and they have sustained injuries. Immediately petitioner Nos.1 and 2 have lodged a complaint on 10.02.2025 before the Sub-Inspector of Police, Komuravelli, however, they have not

registered F.I.R. Petitioner Nos.1 and 2 have taken treatment at Telangana Vaidhya Vidhana Parishad, Community Health Center, Cherial, Siddipet District on the very same day.

4.4 He also submitted that even according to the Medical Certificate produced by respondent No.2, he sustained small injury. Hence, the ingredients of Section 109 of BNS are not attracted against the petitioners.

4.5 He further submitted that petitioner Nos.3 to 7 are agricultural workers and there are no specific allegations levelled against them. The daughter of petitioner No.5 namely Akhila marriage is scheduled to be held on 20.04.2025. The petitioners are ready and willing to cooperate with the investigation pending if any and they will abide by the conditions, which are going to be imposed by this Court. Hence, prayed to grant anticipatory bail to the petitioners.

5.1 *Per contra*, learned counsel appearing on behalf of respondent No.2 submitted that respondent No.2 is the absolute owner and possessor of the land claimed by petitioner Nos.1 and 2. He further submitted that the

petitioner Nos.1 and 2 are claiming rights over the suit schedule property of O.S.No.352 of 2018 (O.S.No.48 of 2024) from Thandra Ajith Kumar Reddy. According to the letter issued by the Tahsildar, Cherial to the Sub-Inspector of Police, dated 20.08.2020, the said Ajith Kumar Reddy does not possess any land on his name as per the pahanies in respect of Sy.Nos.824/A, 826/A and 828/A. Hence question of claiming rights in respect of the very same land by the petitioner Nos.1 and 2 does not arise. The petitioners have committed a grave offence and the ingredients of Section 109 of BNS are applicable. Immediately as soon as the offence took place, respondent No.2 informed the same to the concerned police officials through phone and subsequently, lodged complaint before the Commissioner of Police, Siddipet on 25.03.2025. Thereafter, respondent No.2 submitted the present complaint on 04.04.2025. Hence, the contention raised by the learned counsel for the petitioners that respondent No.2 lodged the present complaint after expiry of long period without explaining any reason, is not tenable under law.

5.2 He further submitted that merely because the respondent No.2 had sustained small injury, that is not a

ground to attract the ingredients of Section 109 of BNS. In support of his contention, he relied upon the judgment of Hon'ble Supreme Court in **Shoyeb Raja vs. State of Madhya Pradesh and others**¹, wherein it was held that,

“It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. If the injury inflicted has been with the avowed object or intention to cause death, the ritual nature, extent or character of the injury or whether such injury is sufficient to actually causing death are really factors which are wholly irrelevant for adjudging the culpability under Section 307 IPC. The section makes a distinction between the act of the accused and its result, if any. The Court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. Therefore, it is not correct to acquit an accused of the charge under Section 307 IPC merely because the injuries inflicted on the victim were in the nature of a simple hurt.”

Hence, the petitioners are not entitled for granting anticipatory bail.

6. Learned Additional Public Prosecutor submitted that the investigation is under progress and if the petitioners are granted anticipatory bail, they will interfere with the investigation and also tried to influence the

¹ 2024 SCC OnLine SC 2624

witnesses and therefore, they are not entitled for grant of anticipatory bail.

7. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that petitioner Nos.1 and 2 are claiming rights in respect of the land to an extent of Ac.7-24 guntas covered by Sy.No.824/A, 826/A1, 826/A2 and 828/A situated at Nagapuri Village, Cherial Mandal, Siddipet District, basing upon the registered sale deeds executed by Thandra Ajith Kumar Reddy in the year 2016 and 2017. The record further reveals that the names of the petitioners were mutated in the revenue records, and pattadar pass books and title deeds were issued in their favour.

8. The record further reveals that petitioner Nos.1 and 2 filed O.S.No.352 of 2018 on the file of Additional Junior Civil Judge at Jangaon seeking for perpetual injunction. Along with the said suit, they have also filed I.A.No.573 of 2018 for grant of temporary interim injunction invoking the provisions under Order 39 Rule 1 and 2 of C.P.C. On 28.11.2018 the learned Additional Junior Civil Judge, Jangaon granted temporary injunction till

20.12.2018 and thereafter, the above said interim injunction order was extended until further orders on 01.11.2019. The above said suit was transferred to the Court of Additional Senior Civil Judge, Siddipet and re-numbered as O.S.No.48 of 2024 and the same is pending. It is not in dispute that the vendors of petitioner Nos.1 and 2 have also filed suit in O.S.No.31 of 2021 on the file of Senior Civil Judge, Jangaon seeking declaration of title and consequential injunction in respect of the land to an extent of Ac.29.11 guntas. In the said suit, respondent No.2 was defendant No.2 and the same is pending.

9. The record further reveals that questioning the revenue entries as well as issuance of pattadar pass books and title deeds in favour of petitioner Nos.1 and 2, respondent No.2 had filed appeal before the Revenue Divisional Officer, Siddipet under Section 5(5) of the Telangana Rights in Land and Pattadar Pass Books Act, 1971 and the said case was transferred to Special Tribunal and the said appeal was allowed by its order dated 30.07.2021. Questioning the same, petitioner Nos.1 and 2 have filed Writ Petition No.24233 of 2021 before this Court and the same was allowed by this Court *vide* order dated

22.07.2024 by setting aside the orders passed by the Special Tribunal and directed petitioner Nos.1 and 2 as well as respondent No.2 herein and other respondents to take all the pleas and grounds, which they have taken in the said writ petition, in the pending suits and the said order has become final.

10. It is also not in dispute that respondent No.2 has filed complaints against petitioner Nos.1 and 2 and others and basing on the same, Crime Nos.38 of 2020, 65 of 2020 and 84 of 2023 were registered and the Investigating Officers after completion of investigation filed charge sheets and the said cases are pending.

11. The record further reveals that petitioner No.1 herein lodged a complaint on 10.02.2025 before the Sub-Inspector of Police, Komuravelli against respondent No.2 and others. However, the same was not registered as a crime. Petitioner Nos.1 to 3 have taken treatment in Telangana Vaidya Vidhana Parishad, Community Health Centre, Cherial, Siddipet District on 10.02.2025.

12. It is already stated supra that civil disputes are pending between petitioner Nos.1 and 2 and respondent

No.2 in respect of land to an extent of Ac.7-24 guntas and temporary injunction order has been granted by the competent Court in I.A.No.573 of 2018 dated 28.11.2018 is subsisting as on today. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners/accused Nos.1 to 7, subject to the following conditions:

- i) The petitioners/accused Nos.1 to 7 are directed to surrender before the S.H.O., Komuravelli Police Station, Siddipet District on or before 22.04.2025 and on such surrender, the Station House Officer is directed to enlarge the petitioners on bail on each of them executing a personal bond for a sum of Rs.30,000/- (Rupees Thirty thousand only), with two sureties for a like sum each to his satisfaction.
- ii) After release, the petitioners/accused Nos.1 to 7 shall appear before the concerned S.H.O. at 11-00 a.m. on every Monday and Saturday for a period of eight weeks or till filing of charge sheet, whichever is earlier, for the purpose of investigation and thereafter, as and when required.
- iii) After release, the petitioners/accused Nos.1 to 7 shall not interfere with the investigation or influence the witnesses during the course of investigation.
- iv) After release, if the petitioners/accused Nos.1 to 7 commit similar offences, respondent Nos.1 and 2 are entitled to file application seeking for cancellation of this anticipatory bail.

- v) The petitioners/accused Nos.1 to 7 shall abide by the conditions stipulated under Section 482 of BNSS.

13. Accordingly, the Criminal Petition is allowed.

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

JUSTICE J.SREENIVAS RAO

Date: 16.04.2025
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