

THE HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.1182 of 2021

ORDER:

This Criminal Petition, under Sections 437 and 439 of the Code of Criminal Procedure, 1973, is filed by the petitioners/A-9, A-10, A-13, A-14 and A-17 seeking to release them on bail in S.C.No.5 of 2021 on the file of the IX Additional District Judge-cum-FTC Court, Ranga Reddy District, which was taken cognizance for the offences punishable under Sections 120-B(1), 302, 364, 379, 448, 449, 341, 342, 352, 323 and 506 read with Section 34 of I.P.C.

As per the charge sheet, the case of the prosecution, in brief, is that one Chinta Yoga Hemanth Kumar (hereinafter referred to as 'the deceased') fell in love with the *de facto complainant* and decided to marry. They belong to different castes. The deceased belongs to 'Vsya Community' and the *de facto complainant* belongs to 'Reddy Community'. The parents of the *de facto complainant* were not happy with the said love affair and not interested in the proposal of the *de facto complainant* to marry the deceased. The parents of the *de facto complainant* with the help of their relatives, who are also accused in the present crime, tried to convince the *de facto complainant* and the deceased. They have forcibly taken the cell phone of the *de facto complainant*. For sometime they kept silent. Thereafter, the *de facto complainant* and the deceased continued to meet each other. They have also threatened the deceased and his father. But, there is no

change in the attitude of the deceased. The deceased and the *de facto complainant* have continued their love affair and ultimately they got married on 10.06.2020 against the wishes of the parents of the *de facto complainant*. Due to the same, the parents of the *de facto complainant* were not happy and they felt insult in the society. They underwent trauma and they have tried to convince their daughter. But, there was no change in the decision of the *de facto complainant*. Therefore, the parents of the *de facto complainant* have hatched a plan to do away the life of the deceased. Accordingly, they have murdered the deceased in connivance with the other accused for marrying their daughter, which is an inter-caste marriage.

Heard learned Counsel for the petitioners, learned Assistant Public Prosecutor appearing for the respondent-State and perused the record.

Learned Counsel for the petitioners would submit that a bare reading of the contents of the complaint reveals beyond any doubt that the petitioners herein, being the relatives of the *de facto complainant* visited her house at about 2.30 P.M., on 24.09.2020 for the purpose of pacifying and reconciling the *inter se* disputes that arose between the *de facto complainant* and her parents on account of her inter caste marriage against the wishes and consent of her parents and by escaping from her parents' house. The contents of the complaint further reveal that the *de facto complainant* and her

husband having agreed to resolve their *inter se* disputes with her parents, agreed to visit the house of her parents and, therefore, they accompanied the petitioners and started towards the house of her parents in I-20 Car, however, after travelling for some distance, the *de facto* complainant and her husband changed their minds and have got down from the said Car and ran away. The *de facto* complainant admitted in the complaint that thereafter some other persons, who came in another white colour Swift Car, have taken her husband, which is suffice to establish that the petitioners are not involved in kidnapping of neither the *de facto* complainant nor her husband. It is also submitted that since the endeavour of the petitioners to resolve the *inter se* dispute between the *de facto* complainant and her parents took unpredicted turn, they have dropped their idea of reconciling and left back to their respective homes on 24.09.2020 itself and, therefore, they cannot be implicated or associated with the events that took place in their absence. It is further submitted that the contents of the charge sheet in paragraph Nos.2, 4 and 7, clearly establish that the petitioners neither involved in the abduction or conspiracy much less the murder. It is also submitted that entire investigation has been completed, the police have filed charge sheet, which was taken cognizance and numbered as S.C.No.5 of 2021, pending on the file of the IX Additional District Judge-cum-FTC Court, Ranga Reddy District, as such there is no threat of tampering the witnesses or influencing/intimidating

either the witnesses or the *de facto* complainant. It is further submitted that the evidence collected by the prosecution is found to be suffered from serious infirmities, inconsistencies and inherent improbabilities. There were several missing links in the circumstances put forward by the prosecution and the prosecution had miserably failed to complete the chain of circumstances by conclusively establishing that each and every circumstance unerringly pointed to the guilt of the petitioners, besides the fact that, no overt or covert act is fastened against the petitioners. It is also submitted that the petitioners are law abiding citizens and they do not have criminal antecedents and are having children to take care of. It is further submitted that there are changed circumstances from the date of dismissal of the earlier bail applications and now the entire investigation is over, question of tampering witnesses does not arise as the police have already filed charge sheet, which was taken cognizance and numbered as S.C. In support of his contentions, learned Counsel for the petitioners relied on the following judgments:-

1. *State (NCT of Delhi) v. Shiv Charan Bansal*¹
2. *Myakala Dharmarajan v. State of Telangana*²
3. *Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav*³
4. *Arup Bhuyan v. State of Assam*⁴
5. *State of Kerala v. Raneet*⁵

¹ (2020) 2 SCC 290

² (2020) 2 SCC 743

³ (2004) 7 SCC 528

⁴ (2011) 3 SCC 377

6. *Lingaram Kadopi v. State of Chattisgarh*⁶

Learned Assistant Public Prosecutor would submit that having regard to the fact that the offences involved are grievous in nature, the matter has been assigned to Special Court for speedy trial. If the petitioners have been released on bail, there is every possibility of threatening or influencing the prosecution witnesses and it is difficult to secure their presence.

While granting bail, it is necessary for the Court to consider the following factors among other circumstances:

- (a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence;
- (b) Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
- (c) *Prima facie* satisfaction of the Court in support of the charge;

This is the third bail application filed by the petitioners. After evaluating the entire material on record, another co-ordinate Bench of this Court, rejected the earlier bail applications filed by the petitioners.

In *State of Tamilnadu vs. S.A.Raja*⁷ the Apex Court held that without there being any major change of circumstances, another

⁵ (2011) 1 SCC 784

⁶ (2014) 3 SCC 474

⁷ 2005 (8) SCC 380

fresh application should not have been dealt with within a short span of time unless there were valid grounds giving rise to a tenable case for bail. The Court further held the principles of *res judicata* are not applicable to bail applications, but the repeated filing of the bail applications without there being any change of circumstances would lead to bad precedents. Filing of the chargesheet/final report does not amount to a substantial change in fact-situation.

That apart, as is evident from the record more particularly call data obtained by the investigating agency would show that serious allegations are leveled against the petitioners that they along with other accused, having entered into criminal conspiracy, abducted the deceased from his house, taken to outskirts of the city and killed him by way of strangulation and as such the petitioners have committed heinous offence. Admittedly, the petitioners are the close relatives of the *de facto complainant* and as seen from the call data, they are in touch with the other accused before commission of offence. The modus operandi adopted by the petitioners and other accused in the crime would also *prima facie* disclose that they have committed the offences to do away the life of the deceased to separate the *de facto complainant* from him and hence, there is apprehension of threat to the *de facto complainant*. Further, the apprehension of the learned Assistant Public

Prosecutor that it is difficult to secure the presence of the petitioners, if they are released on bail, cannot be ruled out.

In view of the aforesaid reasons and since there are no changed circumstances from the date of dismissal of earlier bail applications, I am not inclined to grant bail to the petitioners.

Accordingly, the Criminal Petition is dismissed. However, the learned IX Additional District Judge-cum-F.T.C. Court, Ranga Reddy District, is directed to complete the trial in the above Sessions Case, as expeditiously as possible, preferably, within a period of four months from the date of receipt of a copy of this order.


JUSTICE G. SRI DEVI

08.03.2021
Gsn/gkv