

THE HON'BLE MS JUSTICE B.S.BHANUMATHI

Criminal Petition No.1681 of 2023

ORDER :

This Criminal Petition is filed seeking bail under Section 437 and 439 of the Code of Criminal Procedure, 1973 ('CrPC') to the petitioners No.1 to 4/A.1 to A.3 and A.5 in Crime No.193 of 2022 of Gara Police Station, registered on 06-12-2022 for the offence punishable under Section 302, 120-B, r/w 34 of Indian Penal Code.

2. Heard learned counsel for the petitioners and Sri.P.M.Mithileswara Reddy learned Special Assistant Public Prosecutor representing the respondent/State.

3. The case of prosecution, in brief, is that the deceased who is the son of the *defacto* complainant used to look after the business in gas godown and in the same manner, on 06.12.2022 and left home at 6:15 hrs on his motor cycle and later when the *defacto* complainant went to fish market at 6:40hrs, he was informed by Kappa Sai that the son of the *defacto* complainant was killed on the road near gas godown by unknown persons. It is the further case of the prosecution that the investigation revealed that with the help of the CCTV footage that accused No.1 to 5 were involved in the commission of offence.

4. Learned counsel for the petitioners submitted that the death is caused by unknown persons and the petitioners are falsely implicated in the offence. He further submitted that A.4 in this case is already granted bail by this Court in Crl.P.No.1103 of 2023 on 22nd February, 2023. He further submitted that it is more than 90 days since the date of remand of the petitioners to judicial custody, it is only a preliminary charge sheet which is filed before 90 days and the same is not due compliance of Section 167(2) Cr.P.C. Therefore, he submitted that the petitioners are entitled to default bail and placed reliance on the decision of this High Court in **Akula Ravi Teja vs. State of Andhra Pradesh**¹ wherein though a preliminary charge sheet was filed without completing entire investigation, the default bail was granted to the accused. He further submitted that irrespective of bail, even on merits, the petitioners are entitled to bail as there is no material to implicate the petitioners to the offence and that the petitioners are not likely to tamper with the evidence or influence the witnesses. He further submitted that due to political rivalry in the village, the petitioners are implicated.

5. The learned Special Assistant Public Prosecutor opposed to the petition stating that default bail cannot be granted, as the

¹ 2021 CrL. LJ 1469

preliminary charge sheet was filed. He further submitted that the case of A.4 is differently treated while granting bail as he is aged person of 63 years and he was not at the scene of offence. However, he submitted that there are no other criminal antecedents, but they are political rival groups in the village and there is likelihood of law and order problem.

6. Perused the record. Filing of preliminary charge sheet itself indicates completion of material part of investigation, but investigation is not completed. Since there are no other criminal antecedents, nor is it shown that the petitioners are likely to meddle with the investigation or likely to commit any other offence and after granting bail to A.4, there is no complaint against him for abusing the order of bail, the petitioners can be granted bail, subject to conditions.

7. In the result, the petition is allowed. The petitioners/A.1 (Talakola Ravindra Reddy alias Ravi), A.2 (Savada Srinu), A.3 (Mallela Venkata Subba Reddy) and A.5 (Yarranagu Ragha Niranjan Reddy alias Raghava Reddy) shall be released on bail on their executing personal bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) each with two sureties for the like amount each, to the satisfaction of the learned Judicial Magistrate of First Class Cum Special Mobile Court, Srikakulam and subject to complying the following conditions:

- i. The petitioners/A.1 to A.3 and A.5 shall appear before the Station House Officer, twice in a week i.e., on every Sunday and Thursday between 10.00 A.M. and 5.00 P.M. starting after of their release until further orders or till finding of the final charge sheet is filed, whichever is earlier;
- ii. The petitioners/A.1 to A.3 and A.5 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 Investigating or Police Officer;
- iii. They shall co-operate with the investigation, and shall not tamper the evidence.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE B.S.BHANUMATHI

Date : 20-03-2023

KAS/SAB