

THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR
CRIMINAL PEITION Nos.6295 and 6306 of 2024

COMMON ORDER:

1. The criminal petition No.6295 of 2024 under sections 437 and 439 of the CrPC is filed by the petitioner/**A83** to grant regular bail in connection with Crime No.650 of 2021 of Mangalagiri Rural Police Station of Guntur District for the offences punishable under Sections 147, 148, 452, 427, 323, 324, 506, 326, 307, 450, 380 read with 109, 120B, 149 of the IPC.
2. The criminal petition No.6306 under sections 437 and 439 of the CrPC is filed by the petitioner/**A80** to grant regular bail in connection with Crime No.650 of 2021 of Mangalagiri Rural Police Station of Guntur District for the offences punishable under Sections 147, 148, 452, 427, 323, 324, 506, 326, 307, 450, 380 read with 109, 120B, 149 of the IPC.
3. Heard arguments of learned senior counsels, Sri Siddarth Dave, Sri P.Veera Reddy and Sri P.Sudhakar Reddy for petitioners and heard arguments of learned senior counsel, Sri Siddarth Luthra and learned Public Prosecutor, Sri C.Lakshmi Narayana for respondent/State.
4. Contesting the contentions in both the petitions, counters were filed by the respondent.

5. The brief facts of the case are

There are two prominent recognized political parties in the State of Andhra Pradesh. The crime incident in this case took place on 19.10.2021. By then, the YSR Congress Party was in power. The scene of offence is Andhra Pradesh State's TDP office situate along NH6 Highway road, Athmakuru Panchayat, Mangalagiri Mandal. TDP was in the opposition when this incident occurred on 19.10.2021. FIR No.650 of 2021 was registered on the date of incident/19.10.2021. The incident allegedly occurred at about 5.30 pm in the evening. The petitioners along with 70 others belonging to YSRCP party came in cars and other vehicles and they were possessed of iron rods, hammers, hockey sticks etc. They reached the TDP State office and forcibly pushed aside the security guard and forcibly entered the front office and demolished the furniture. It is mentioned that several TDP workers were there in the building at that time. This mob of people attacked many TDP supporters and employees. There were about five injured. The statement of one of the injured persons was recorded at about 9.00 pm in Manipal hospital. Acting upon that statement, FIR was registered at about 11.00 pm. The FIR was registered for the offences under sections 147, 148, 452, 427, 323, 324, 506 read with 149 IPC. Police embarked upon the investigation. They identified several accused. Some witnesses were examined. Thereafter, electronic evidence was collected and the investigating officer on verifying the medical records and all other materials he collected had arrived at an opinion that the facts do indicate to him the operation of sections

326, 307, 450, 380 read with 109, 120B IPC. On 03.07.2024, he had filed a memo before the learned Judicial Magistrate of the First Class, Mangalagiri informing the court that the case has to be considered for these penal provisions also.

6. Sri N.Suresh Babu/**A80** is formerly Member of the Parliament. Sri Avutu Srinivasa Reddy/**A83** is a business man. Their essential contentions are that the crime was registered in the year 2001 and nearly three years thereafter they were arrested in the year 2024. They are falsely implicated and the record does not indicate any specific role allegedly played by them. Since they are supporters of YSRCP the present establishment purposefully implicated them by bringing in additional penal provisions before which time they were served with Section 41A Cr.P.C. notices to which there was due compliance on part of the petitioners.

7. The contentions of the State in opposing the prayer for regular bail of **A80** are essentially on the following points:

He is earlier involved in 11 crimes. The details are furnished by the prosecution by way of a note.

Cr.No . 93 of 2010 of Thulluru Police Station	After due investigation that was found to be a civil case and therefore action was dropped on 30.11.2010.
Cr.No. 47 of 2012 which became C.C.No.632 of 2012	There was compromise and the offence was compounded before LokAdalat.

Cr.No.96 of 2016	under section 151 CrPC of Tulluru Police Station
Cr.No.131 of 2017	under section 151 CrPC of Tulluru Police Station
Cr.No.105 of 2013	under section 151 CrPC of Tulluru Police Station
Cr.No.178 of 2018	under section 151 CrPC of Tulluru Police Station All the above pertain to Dharnas and rallys and preventive steps were taken by the police and persons were released on their personal bonds.
Cr.No.34 of 2020 of Amaravathi Police Station, Cr.No.390 of 2020 of Tulluru Police Station and Cr.No. 154 of 2024 of Tulluru Police station.	These cases are pending.

- LWs. 28 to 30 and LW.40 in their statements made to police confirmed the presence of this A80 at the time of offence. Several other accused are either absconding or concealing themselves and many of them even switched off their mobile phones and they are yet to be arrested.

- A20, A26, A35, A40, A53, A56 in their confessions made by them before the police stated that A80 is one of the conspirators and abettors of the offence.
- During investigation, petitioner/A80 was questioned and he gave his confession and a Panchanama was made but he refused to subscribe his signature.
- Petitioner/A80 despite questioning, failed to produce and hand over his mobile phone. At one stage, he said that he lost it and at another stage, he said that he gave it to his brother/relative. Despite efforts from police, those individuals could not be contacted and the mobile phones have not yet been recovered.
- Mobile phones are relevant and crucial for further investigation of this case. Since from such mobile phones, the investigation agency could recover Whatsapp chats and collect Google timelines of the crime incident which is an outcome of pre-determined and pre-meditated plan of the political party then in power to which the petitioner is a staunch supporter. He holds a clout, and he could interfere with the investigation and tamper with the evidence.

8. As against Sri A. Srinivas Reddy/A83, the State opposed the bail which include all that is stated by it concerning A80 except the aspect of criminal antecedents. It is stated that this petitioner/A83 though confessed, he refused to subscribe his signature and failed to produce his mobile phone and refused to say where it was.

- Health concerns expressed by the petitioner/A83 pertain to 2023 and at the present, as per the medical reports, his health is stable.

9. On considering the rival submissions, all the facts and the principles of law, the following aspects are to be stated:

It is rightly contended by Sri Siddartha Dave the learned Senior Counsel for petitioners that at the stage of bail hearing, a detailed examination of evidence and elaborate documentation of the merits of the case need not to be undertaken. The court hearing the plea should exercise its discretion in a judicious manner and not as a matter of course. The order needs to indicate reasons for *prime facie* concluding as to why bail is to be granted or not to be granted vide ***P.Chidambaram V. Central Bureau of Investigation***¹. Learned counsel for petitioners further argued the principle of law that bail is not to be withheld as a punishment. The courts should recognise the principle that bail is rule and jail is exception vide ***Manish Sisodia V. Directorate of Enforcement***².

Learned Senior Counsel for petitioners also argued that confession of an accused and confession of a co-accused are not matters of evidence and they cannot be considered in determining the case vide ***Hari Charan Kurmi And Jogia Hajam V. State of Bihar***³.

¹ (2020) 13 SCC 337

² 2024 SCC Online SC 1920

³ (1964) 6 SCR 623

10. As a matter of fact, the contention of the prosecution is that these petitioners had confessed before the police in the presence of panch witnesses and that was documented but they refused to subscribe signatures. It is contended for the State that these petitioners are not cooperating for investigation and therefore they do not deserve bail. This contention has no merit. Learned counsel for petitioners stated that these petitioners never confessed and the investigating officer himself prepared certain confessions and asked the petitioners to sign for which they refused. When asked by the court, it was stated on behalf of the State that these petitioners were not produced before learned Judicial Magistrate of the First Class for recording their confessions under Section 164 CrPC/BNSS since they refused to give confession. The above facts by themselves point out that the petitioners did not intend to confess. Confessions made to police by accused is no evidence. One cannot be compelled to incriminate himself⁴. In such circumstances the endeavour of the investigation agency to do something that law does not cherish cannot be called as non-cooperation from accused.

11. Coming to mobile phones of the petitioners and their non availability, Sri P.Veera Reddy, the learned Senior Counsel for petitioners cited ***Sanket Bhadresh Modi V. Central Bureau of Investigation*** and ***Selvi V. State of Karnataka***⁵.

⁴ Article 20(3) of the Constitution of India

⁵ (2010) 7 SCC 263

12. In the latter mentioned celebrated case, their Lordships of the Hon'ble Supreme Court of India exhaustively dealt with the rationale of the right against self-incrimination.

13. In the former mentioned case of the Hon'ble Delhi High court, the learned judge was dealing with a situation where the bail was opposed on the ground that the accused was not cooperating with the investigation agency as he failed to provide requisite passwords to operate and retrieve of the information from the mobile devices that were seized by the investigation agency. The learned Judge acting upon the ratio in Selvi's case stated that investigation agency cannot expect an accused to sing in a tune which is music to their ears especially when the accused is truly protected under Article 20(3) of constitution of India.

14. In the light of the above principles, the failure of accused in submitting their mobile phones while in custody cannot be termed as non-cooperation from the accused. Investigation agency may not feel deterred in securing further electronic evidence simply because it could not take hold of the mobile phones from the accused. While the material produced before the court does indicate some sort of presence of these petitioners outside the TDP office thereby showing that they have some role to play in the offence that was allegedly committed, such material justifies their arrest and detention. However, their continued detention must be justified by the prosecution, failing which, the court has to necessarily consider the prayer for bail positively. Earlier the anticipatory bail petitions of these accused were rejected by this court. Their arrest took place after that. The contention of the

State is that there are other accused who are still at large and there is larger conspiracy which is to be unearthed. Those contentions show that qua these accused, investigation stood completed. They were arrested on 04.09.2024 and were remanded to judicial custody on 05.09.2024 and for the last one month, they have been in judicial custody. Even as per the counter filed by the State, on the application of the prosecution, police custody of these petitioners was granted and they were taken to police custody and after due investigative work, they were surrendered back to the court and were remanded to judicial custody. Even according to the prosecution, nearly 45 witnesses were examined in this crime. Material objects and electronic evidence were collected, and scores of accused were arrested. Nearly 34 accused were released on bail either by this court or by the court below. The occupation, the residences of the petitioners and their availability for all these years do indicate that they are not likely to avoid the process of law. All these facts being considered in the light of the nature of the crime committed, this court finds any continued detention unnecessary. Hence, prayer is granted.

15. In the result, both the Criminal Petitions are allowed in the following terms.

1. The petitioner/**A83** in Crl.P.No.6295 of 2024 and the petitioner/**A80** in Crl.P.No.6306 of 2024 shall be enlarged on bail on each executing a personal bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two

sureties of the like sum each to the satisfaction of the learned Additional Judicial Magistrate of the First Class - cum Civil Judge (Junior Division), Mangalagiri.

2. Petitioners shall mark their attendance before the investigating officer on 1st and 15th of every month between 10.00 AM and 1.00 PM till filing of the charge sheet or ordered otherwise by the court.
3. The petitioners shall make themselves available for investigation as and when required.
4. The petitioners shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case to dissuade them from disclosing such facts to the court or to any police officer.
5. They shall not indulge in similar acts of crime.
6. They shall participate in trial process without fail.

Dr. V.R.K.KRUPA SAGAR, J

Date: 04.10.2024

Dvs

THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR

CRIMINAL PETITION Nos.6295 and 6306 of 2024

Date: 04.10.2024

Dvs