

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL PETITION No.3887 OF 2024

Between:

1. K.C.Krishna Reddy, S/o.Late K.C.Rami Reddy,
Aged 64 years, R/o.D.No.26-4-1628-A1,
Jayan Tej Nilayam, Melapuram, SBI Colony,
Hindupur Town and Mandal,
Sri Satya Sai District.
2. K.C.Nagarjuna Reddy, S/o.Krishna Reddy,
Aged 32 years, R/o.D.No.26-4-1628-A1,
Jayan Tej Nilayam, Melapuram, SBI Colony,
Hindupur Town and Mandal,
Sri Satya Sai District.
3. K.C.Sai Prasad Reddy, S/o.K.C.Krishna Reddy,
Aged 30 years, R/o.D.No.26-4-1628-A1,
Jayan Tej Nilayam, Melapuram, SBI Colony,
Hindupur Town and Mandal,
Sri Satya Sai District. ... Petitioners/A-1 to A-3

Versus

The State of Andhra Pradesh, represented by its
Public Prosecutor, High Court of Andhra Pradesh
at Amaravati.

... Respondent/Respondent

* * * * *

DATE OF ORDER PRONOUNCED : 07.08.2024.

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

1. Whether Reporters of Local Newspapers
may be allowed to see the Order? Yes/No
2. Whether the copy of Order may be
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to see the
fair copy of the Order? Yes/No

JUSTICE B.V.L.N.CHAKRAVARTHI

*** HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

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At Amaravati.

... Respondent/Respondent

! Counsel for the petitioners : Sri Posani Venkateswarlu
^ Counsel for the Respondent : Sri A.Sai Rohith, learned
/State : Assistant Public Prosecutor
for State.

< Gist:

> Head Note:

? Cases referred:

1. **Union of India Vs. State of Maharashtra and others reported in 2020 (4) SCC 761.**
2. **Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others reported in 2011 (1) SCC 694.**

This Court made the following:

APHC010245432024



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3368]

WEDNESDAY, THE SEVENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL PETITION NO: 3887/2024

Between:

K C Krishna Reddy and Others

...PETITIONER/ACCUSED(S)

AND

The State Of Andhra Pradesh

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused(S):

1.P VIVEK

Counsel for the Respondent/complainant:

1.ABDUS SALEEM

2.PUBLIC PROSECUTOR (AP)

The Court made the following:

THE HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

CRIMINAL PETITION No.3887 OF 2024

ORDER:

This petition is filed U/s.438 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') to direct the respondent/police to enlarge the petitioners/A-1 to A-3 on bail in the event of their arrest in connection with Cr.No.103/2024 of Dharmavaram I Town Police Station, Sri Satya Sai District.

02. The contention of the petitioners is that they were implicated as A-1 to A-3 in the above crime for the offence under sections 302, 201, 120-B r/w.149 of Indian Penal Code, 1860 (hereinafter referred to as 'I.P.C.') and section 3(2)(v) of SC and ST (POA) Act 2015, which was registered basing on a written report presented by Mr.Birru Rajasekhar (hereinafter referred to as 'defacto-complainant'), father of Mr.Birru Sampath Kumar (hereinafter referred to as 'deceased').

03. The case of the defacto-complainant is that the deceased was practising as an advocate at Hindupur and also working as National Secretary of National Students Union of India (N.S.U.I.) and In-charge of Kerala State. The deceased and one Mr.Srikanth are friends. There

were disputes between Srikanth and A-1 with respect to a land situated at Melapuram Cross, Hindupur Town. The deceased was supporting Mr.Srikanth. The deceased was threatened by one Ramanji (A-4) and others over phone for supporting Mr.Srikanth. On 29.05.2024 the deceased informed defacto-complainant that he is going to Court. On 30.05.2024 at about 09.00 a.m. the defacto-complainant came to know that the body of his son was found on Dharmavaram-Yellukuntla road. Immediately, the defacto-complainant went to the spot, and found body of his son with injuries. Therefore, he presented the report to the police. The same was registered as a case in Cr.No.103/2024 of Dharmavaram I Town Police Station.

04. The 1st petitioner is practising as an advocate. The 2nd petitioner is son of the 1st petitioner and he is also practising as an advocate. The 3rd petitioner is the son of the 1st petitioner, studied M.B.B.S., appearing for Post Graduate entrance examination staying at Hyderabad.

05. The deceased and his friend Mr.Srikanth were involved in real estate disputes. Several criminal cases were registered against the deceased and Mr.Srikanth. Police opened a rowdy sheet against the deceased and Mr.Srikanth. The petitioners are no way concerned with

the death of the deceased. The suspicion of the defacto-complainant is baseless and unfounded. No prima facie case is established against the petitioners.

06. There are no allegations in the report presented to the police that the deceased was murdered, as he belongs to Scheduled Caste or Scheduled Tribe to attract the offence U/s.3(2)(v) of SC and ST (POA) Act, 2015. Hence, the anticipatory bail application is maintainable, in view of the judgment of the Hon'ble Apex Court in the case of **Union of India Vs. State of Maharashtra and others**¹.

07. The petitioners filed a civil suit in O.S.34/2023 on the file of II Addl.District Judge, Hindupur, against Mr.Srikanth and others for recovery of amount. Mr.Srikanth threatened the 1st petitioner and tried to kill him. The 1st petitioner presented a report against Mr.Srikanth and others. The same was registered as a case in Cr.No.251/2023 of Hindupur I Town Police Station.

08. The petitioners are ready and willing to co-operate with the investigation. The police are trying to arrest the petitioners. If the

¹ 2020 (4) SCC 761

petitioners are arrested, they will suffer irreparable loss and hardship. Hence, they filed the application for anticipatory bail.

09. The defacto-complainant was impleaded as 2nd respondent and represented by a counsel Mr.Abdus Saleem.

10. Sri A.Sai Rohith, learned Assistant Public Prosecutor took notice on behalf of the State.

11. Heard Sri Posani Venkateswarlu, learned Senior Counsel for the petitioners, Sri A.Sai Rohith, learned Assistant Public Prosecutor representing State and Sri Abdus Saleem, learned counsel for the defacto-complainant/2nd respondent.

12. Sri P.Venkateswarlu, learned Senior Counsel representing the petitioners would submit that perusal of the report submitted by the defacto-complainant on 30.05.2024 do not disclose any prima facie case against the petitioners to connect them with the alleged offence, except suspecting the role of the petitioners in the alleged offence. He would further submit that police during the course of investigation arrested A-4 and A-6 to A-9 on 11.06.2024 and A-4 confessed about the murder of the deceased, he made a statement that at the instance of the

petitioners, the deceased was murdered with the assistance of A-5 to A-9.

13. The learned Senior Counsel would further submit that the alleged confession statement of A-4 cannot be used against the petitioners as it was not corroborated by any other evidence to show that the petitioners engaged the other accused for committing murder of the deceased; Therefore, there is no prima facie case against the petitioners to connect them with the offence U/s.302 I.P.C; there is no material on record to show that the deceased was murdered, as he belongs to Scheduled Caste or Scheduled Tribe Community; The petitioners No.1 and 2 are practising advocates at Hindupur and the 3rd petitioner is a doctor and appearing for Post Graduate examinations; and therefore, there is no question of their fleeing; In the said circumstances, they may be enlarged on anticipatory bail.

14. The learned Assistant Public Prosecutor representing State would submit that the material collected during investigation would disclose that the death of the deceased is homicide; The deceased belongs to Scheduled Caste community; There were disputes between the petitioners and Mr.Srikanth, who is friend of the deceased relating to

house site located in Hindupur Town; The deceased and Mr.Srikanth are good friends and the deceased supporting Mr.Srikanth; The petitioners filed suit against Mr.Srikanth for recovery of money, which relates to the civil dispute; The petitioners also filed criminal case against Mr.Srikanth alleging that he tried to kill the 1st petitioner; All these circumstances would show strong motive for the petitioners to commit the offence in the case.

15. He would further submit that during investigation, police arrested A-4 and A-6 to A-9 on 11.06.2024; they confessed about the role of the petitioners; Huge money was recovered from the possession of arrested accused, paid to them as consideration for committing murder of the deceased; He also submitted that police during investigation seized the mobile phones of A-4 and A-6 to A-9; they verified the call data records of the petitioners and the arrested accused; found several exchange of calls before the murder, and after the murder of the deceased between the 1st petitioner and the arrested accused; mobile phones were sent for forensic examination for recovery of certain information exchanged between the petitioners and the arrested accused; Therefore, all these circumstances prima facie corroborate the confessional statements of A-4 and A-6 to A-9; and establish the role of petitioners in the murder of

the deceased; Hence, considering the nature of offence, gravity of offence and seriousness of the accusations, the petitioners cannot be enlarged on anticipatory bail, as there is every likelihood of petitioners interfering with the investigation to tamper the evidence, which will hamper the progress of the investigation.

16. The learned counsel representing defacto-complainant re-stated the argument submitted by the learned Assistant Public Prosecutor.

17. In the light of above rival contentions, the point for consideration in this petition is as under:

“Whether the petitioners/A-1 to A-3 can be enlarged on anticipatory bail?”

18. **POINT:**

It is an undisputed fact that the defacto-complainant presented the report to police on 30.05.2024 that his son dead body was found on the outskirts of Dharmavaram Town with injuries. It is also an undisputed fact that the deceased and one Mr.Srikanth are good friends. The petitioners No.1 and 2 are practising advocates at Hindupur. So also, the deceased and Mr.Srikanth. It appears that there are disputes between Mr.Srikanth and petitioners with regard to a house site located in

Hindupur Town near the house of the 1st petitioner. In that connection, the 1st petitioner filed a suit for recovery of money against Mr.Srikanth. He also filed a criminal case against Mr.Srikanth and others for attempt to murder.

19. Police produced Part-I Case Diary pertaining to the case. Verification of the same would show that the police arrested A-4 and A-6 to A-9 during the course of investigation on 11.06.2024 and recorded their confessional statements. A-4 confessed that he engaged A-5 to A-9 at the instance of the petitioners for committing murder of Srikanth and his friend Mr.B.Sampath Kumar i.e., deceased; On 29.05.2024 They found the deceased in the town; using the relations between one of the accused and deceased, they took him to some lonely place, consumed alcohol; later attacked him with deadly weapons and killed him; shifted the dead body in a car and dumped it on the outskirts of Dharmavaram Town. It appears that Police during investigation seized huge amount of cash of nearly Rs.7,00,000/- (Rupees Seven Lakhs) and odd from the possession of arrested accused. They confessed that it was paid to them by the petitioners towards '**SUPARI**' for killing the deceased and his friend Mr.Srikanth. It also appears that police during investigation collected Call Data Records relating to the petitioners and arrested

accused; verified the same; Found exchange of calls between the 1st petitioner and the arrested accused one day prior to the murder of deceased and after the murder of the deceased. Therefore, material collected during the investigation as on the day, prima facie reveals the role and complicity of the petitioners for the offence U/s.302 I.P.C. r/w.120-B and 34 I.P.C.

20. Further, it appears that the police could not arrest the petitioners, as they are at large from the date of incident in the case.

21. The Hon'ble Apex Court in the case of **Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others**² held that "*in a case of anticipatory bail, the complaint filed against the accused to be examined as to whether he filed a false or frivolous complaint, whether there is any family dispute between accused and the complainant, gravity of charge and role of accused, seriousness of the accusations, and discretion to grant anticipatory bail must be exercised on the basis of available material and facts of the particular case and whether the accused has joined the investigation and co-operating with the Investigation Agency and he is not likely to abscond*".

² 2011 (1) SCC 694

22. In the case on hand, the material discussed above would prima facie show involvement of the petitioners in the offence U/s.302 I.P.C. They are at large from the date of offence. Therefore, basing on the material available, considering the nature of offence, gravity of offence, and seriousness of the accusations, this Court is of the considered opinion that it is not a fit case to enlarge the petitioners on anticipatory bail. Accordingly, the point is answered.

23. Before parting with the matter, the Court intends to emphasize an aspect relating to maintenance of Part-1 case dairies by the investigating agencies. Investigation Agency produced bunch of papers styled as Part-I Case Diary. Verification of the same, it is noticed that it is not maintained as per section 172 Cr.P.C., which is as under:

172. Diary of proceedings in investigation.

(1) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and statement of the circumstances ascertained through his investigation.

[(1-A) The statements of witnesses recorded during the course of investigation under Section 161 shall be inserted in the case diary.

(1-B) The diary referred to in sub-section (1) shall be a volume and duly paginated.]

Therefore investigating Officers shall maintain Part-I Case Diary as mandated by the law stated above. It will assist the cause of the justice. Hence, this Court of the considered opinion that it necessary to inform and instruct the Head of Police in the State, to give necessary instructions to all the Investigation Officers in the State to maintain Part-I Case Diary in accordance with 172 Cr.P.C., corresponding to section 192 of Bhartiya Nagarik Suraksha Sanhita (BNSS), 2022.

24. In that view of the matter, the Registrar (General) of this Court is directed to send a copy of this order to the Director General of Police, Andhra Pradesh State, Mangalagiri, for issuing suitable instructions to all the Investigation Officers in the State, about maintenance of Part-I Case Diary, which would ensure the authenticity of records and enhance the credibility of Investigation Agencies, in the State.

25. In the result, the Criminal Petition is dismissed.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

B.V.L.N. CHAKRAVARTHI, J

07.08.2024

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THE HON'BLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

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CRL.PETITION No.3887 OF 2024

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07th August, 2024

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