

IN THE COURT OF THE SPECIAL JUDGE FOR TRIAL OF CASES UNDER
SCHEDULED CASTES & SCHEDULED TRIBES (PREVENTION OF
ATROCITIES) ACT, 1989-CUM-IV ADDITIONAL SESSIONS JUDGE, GUNTUR
Present: **SRI G. RAMA GOPAL,**

SPECIAL JUDGE FOR TRIAL OF CASES UNDER SCHEDULED CASTES &
SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989-CUM-IV
ADDITIONAL SESSIONS JUDGE.

Wednesday, the 19th day of **OCTOBER**, 2022.

Crl.M.P.No.1579/2022 in Cr.No.393/2022
of Pedakakani Police Station

Between:-

1. Shaik Nayab Rasool @ Rasool S/o.Late Khajavali
Aged 26 years, Muslim, 1st Lane, Sivanagaraju Colony,
Guntur. (A1)
2. Moguluri Satish Babu @ Satish S/o.Late Ratnam,
Aged 27 years, Madiga, 1st Lane, Sivanagaraju Colony,
Guntur.

...Petitioners/ A1 and A2.

-And-

The State: The Sub-Divisional Police Officer,
Guntur.

...Respondent/Complainant.

This petition coming before me on 23.09.2022 for hearing in the presence of Sri B.Manoj Kumar, Advocate for the Petitioners/Accused Nos.1 and 2 and of the Special Public Prosecutor for the State/Respondent, and upon perusing the petition, the Case Diary, and the entire material on record, this Court made the following:

ORDER

Heard, the learned counsel for the petitioners/A1 and A2 as well as learned Special Public Prosecutor and perused the record.

2. This fourth bail application is filed by the petitioners/A1 and A2 under Sections 437 and 439 Cr.P.C. to enlarge them on bail in Cr.No.393/2022 of Pedakakani Police Station for the offences punishable under Sections 302 r/w.34 IPC and Section 3(2)(va) of SCs & STs (POA) Amendment Act, 2015.

3. The learned Special Public Prosecutor received the notice, opposed the bail, but, she submitted that most of the investigation has been completed in this case.

4. In brief, the case of prosecution is that:

On 17-07-2022 at 3-30 PM, the petitioners/A1 and A2 who are residing near the house of the complainant viz. Boppana Syamala at 1st Line, Sivanagaraju Colony, Guntur and offered alcohol to her mother, after return from her work, she learnt that the petitioners/A1 and A2 beat her mother near FCI Goodowns and escaped from there,

immediately, her sister Dokka Dhana Rani with her family members rushed to the spot and shifted the deceased viz. Vankayalapati Jhansi @ Jorge to Government General Hospital, Guntur for treatment, later the complainant viz. Boppana Syamala went to Government General Hospital, Guntur and noticed her mother having severe injuries on her hands and head, when the complainant questioned her mother i.e., deceased Vankayapalati Jhansi @ Jorge informed her, the petitioners /A1 and A2 took her Near Jana Chaitanya Plots and consumed alcohol and that they both quarreled with the deceased, A1 beat her with stick on her hands and A2 beat her with beer bottle on her head and dragged her to railway track side and then the petitioners/A1 and A2 left there, while undergoing treatment, the mother of the complainant i.e., deceased Vankayalapati Jhansi died at 9-16 PM, and that the complainant made a complaint against the petitioners/ A1 and A2 on 17-7-2022 at 11-00 PM at Pedakakani Police Station, and then the police registered the above case. During the course of investigation, the police recorded the statements of witnesses u/s.161 Cr.P.C. (L.Ws. 1 to 11). The police arrested the petitioners/A1 and A2 on 21-07-2022 and sent to remand and since then they have been in judicial custody.

**5. The point for consideration is:
“Whether the petitioners/A1 and A2 entitled for bail as prayed for?”**

6. The learned counsel for the petitioners/A1 and A2 submitted various contentions, mainly such as:

- a) the petitioners/A1 and A2 are purely innocents and they did not commit any offence much less the offences alleged against them by the police u/s.302 r/w.34 IPC and Section 3(2)(va) of SCs & STs (POA) Amendment Act, 2015; b) the contents of both the FIR and Remand Report having grounds against the petitioners b the de facto complainant this case was

foisted latently; c) the contents of the FIR or nothing but self narrated, but not the facts of incident has taken place as spoken by the de facto complainant in the report; d) the remand report is very clear that all most of the investigation is completed and the respondent /police examined as many as 11 witnesses (L.Ws.1 to 11); e) the petitioners are doing coolie works and the petitioners are only bread winner of entire family; f) the petitioner/accused is having sufficient sureties for his future appearance to the satisfaction of this Court;

7. The principles relating to grant of bail were considered by the Apex court in **P. Chidambaram Vs. Central Bureau of Investigation, 2019 SCC OnLine SC 1380**, wherein, at para 22 held that:-

“The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:- (i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest (v) larger interest of the public or the State and similar other considerations (vide Prahlad Singh Bhati v. NCT, Delhi and another (2001) 4 SCC 280). There is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be considered on the facts and circumstances of each case and on its own merits. The discretion of the court has to be exercised judiciously and not in an arbitrary manner....”.

8. As it could be seen from the record, this Court dismissed the previous bail applications of the petitioners/A1 and A2 vide

Crl.MP.NO.1333/2022, dated 24-08-2022, Crl.MP.NO.1416/2022, dated 6-9-2022 and Crl.MP.NO.1496/2022, dated 23-09-2022. It appears most of the investigation has been completed and charge sheet only yet to be filed. The petitioners / A1 and A2 have been in judicial custody since 21-07-2022. No previous crimes against the petitioners / A1 and A2 brought to the notice of the Court. The petitioners / A1 and A2 are permanent residents of 1st Lane, Sivanagaraju Colony, Guntur and having properties. The petitioners are ready to furnish sureties and abide any conditions imposed by this Court. Whether the petitioners committed the above offences levelled against them or not only has to be decided in the trial, which may not be possible to take up immediately.

9. Having, considered the case facts and in the light of circumstances stated by the learned counsel for the petitioners/ A1 and A2, I am of the opinion that the petitioners/A1 and A2 can be released on bail with some conditions.

10. In the result, the bail application of petitioners/A1 and A2 is allowed with some conditions;

i) the petitioners/A1 and A2 are ordered to be released on bail executing a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for a like sum each to the satisfaction of the learned VI Addl.Junior Civil Judge, Guntur.

ii) the petitioners/A1 and A2 shall appear before the concerned SHO between 10.00 a.m. and 12.00 noon on every Saturday till commencing of the trial;

iii) the petitioners/A1 and A2 shall follow the following conditions contemplated U/Sec. 437(3) of Cr.P.C. without any deviation,

(a) that the petitioners/A1 and A2 shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that the petitioners/A1 and A2 shall not commit an offence similar to the offence of which they are accused or of the commission of which they are suspected, or

(c) that the petitioners/A1 and A2 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence,

iv) The petitioners/A1 and A2 shall not leave the India without prior permission of this court and petitioner shall cooperate to the police for smooth further investigation if any,

v) If the petitioners/A1 and A2 deviate any conditions, the prosecution is at liberty to take steps for cancellation of the bail of the petitioners/A1 and A2 .

Dictated to the Stenographer Grade-II, corrected and pronounced by me in open Court, this the 19th day of OCTOBER, 2022.

SD/- G.Rama Gopal
Special Sessions Judge-cum-
IV Additional District Judge,
Guntur.

Copy to:

1. The VI Addl.Junior Civil Judge, Guntur.
2. Sri B.Manoj Kumar, Advocate for *the petitioners/A1 and A2*.