

IN THE COURT OF THE II ADDL. DISTRICT AND SESSIONS COURT,
AMALAPURAM.

Present : Sri Velamala Naresh,
II ADDL. DISTRICT AND SESSIONS JUDGE, AMALAPURAM.

Saturday, the 29th day of October, 2022

CRL.M.P.Bail No. 625 of 2022

(Cr.No.141/2022 of Amalapuram Town P.S.)

Between :

1) Samsani Prasad

S/o.Satyanarayana, Age 38 years,
Hindu, Door No.5-3-2/5, Gokale Centre,
Amalapuram.

2) Kadali Durga Vijay alias K.Vijay,
S/o.Satyanarayana, Age 40 years,
D.No.1-145/1, Y.Enugupalli, High School Road,
P.Gannavaram village and Mandal.

3) Tirumanadam Venkata Durga Prasad
S/o.Raghavulu, Age 30 years, Hindu,
Door No.10-1-71, Police Line, Amalapuram.

4) Samsani Ramesh
S/o.Sattibabu, Age 25 years,
Door No.4-1-88, Vaddigudem,
Amalapuram.

5) Chappidi Kiran Rajesh,
C/o.Srinu, Age 18 years
Door No.3-102, Main Road,
Vadaparru, Uppalaguptam Mandal.

6) Chappidi Vasu Chandra Shekhar
S/o.Naga Subrahmanyam, Age 20 years,
Hindu, Door No.4-113, Vadaparru,
Main Road, Gollapalli, Uppalaguptam Mandal.

7) Ketha Srinivasarao,
S/o.Satyanarayana, Age 48 years,
Door No.6-4-119/B, Sriramapuram,
Amalapuram.

8) Yellamelli Vijay Shiva Shankar
S/o.Kasi Viswanadham, Age 37 years,
Door No.2-288, Vithanalavaripalem,
Kamanagaruvu, Amalapuram.

9) Polisetti Rama Krishna alias Polisetti Kishore
S/o.Venkatarao, Age 30 years, Hindu
Door No.3-20, Ramalayam Street, Edarapalli, Amalapuram Mandal.

10) Ketha Suresh
S/o.Appanna, Age 40 years
Door No.6-4-118, Sriramapuram,
Amalapuram.

11) Barla Kiran @ Chota Kiran,
S/o.Bhimeswara Rao, Age 26 years,
Hindu, D.No.11-1-31, Vanapallivari Street,
Amalapuram.

12) Gokarakonda Bala Manikanta,
S/o.Venkateswara Rao, Age 22 years,
Hindu, Padmavathi Nagar, A.Vemavaram,
Amalapuram Rural Mandal.

13) Kumpareddi Anand Kumar @ Kunapareddi Anand Kumar,
S/o.Dorababu, Age 18 years, Hindu,
D.No.5-754, Abbireddi Colony,
Kamanagaruvu, Amalapuram Mandal. ...Petitioners / Accused

And

State : Station House Officer,
Amalapuram Town Police Station,
Rep. by Addl. Public Prosecutor, Amalapuram. ... Respondent/Complainant

These petitions coming before me for final hearing in the presence of Sri M.Adinarayana Rao, Advocate for petitioners Learned Addl. Public Prosecutor for the State, upon perusing the relevant material on record and having stood over for consideration till day, this Court made the following :

ORDER

Consequent to filing of pre-bail petition by the accused under Sections 438 Cr.P.C., with the following averments, seeking granting of pre-bail to them for the offences punishable under Sections Sections 307, 143, 144, 147, 148, 452, 436, 435, 188 r/w 149 IPC Section 32 of Police Act covered by Cr.No.141/2022 of Amalapuram Town Police Station, the present order arises.

2. The accused, being law abiding citizens and by not committing the arrayed offences, have no crime history to their credit.

3. On the false report of Ponnada Venkata Narayana Kumar, the S.H.O, Amalapuram Town P.S. at 9-30 p.m. on 24-5-2022 registered a case in Cr.No.141/2022 for the offence punishable under Sections 307, 143, 144, 147, 148, 452, 436, 435, 188 r/w 149 IPC Section 32 of Police Act alleging as if, he is younger brother of Mummidivaram M.L.A. Sri Ponnada Venkata Sathish Kumar who, being the neighbour, is residing in his own house of Amalapuram, on 24-5-2022 at about 6-30 p.m. while he was at the house of his elder brother, nearly 500 persons including the F.I.R. mentioned accused rushed into his house pelted the stones, when he tried to obstruct them and when he was trying to videolise the situation they poured petrol brought by them on him and tried to ablaze him, however, he

could escape but the miscreants pelted the stones on the glasses and structures of the houses caused damage to the furniture and had set ablaze the motorcycle of his brother, in the meanwhile some police came there, dispersed the mob and safely brought the M.L.A. and his family members from the house, the miscreants did the said acts by opposing naming of district as "Dr.B.R.Ambedkar Konaseema District" by forming as Konaseema Sadhana Samithi and to that effect he gave report to the police.

4. Taking advantage of registration of crime, the police are trying to arrest the petitioners / accused.

5. Though the accused are innocents and are unconcerned with the offences alleged, the police are tagging them as accused at the instance of the political rivals of the accused.

6. The accused are residents of Amalapuram and surrounding areas and as such there is no scope for them to escape from the clutches of law.

7. The offences arrayed against the accused are non-bailable but not punishable with death or imprisonment for life.

8. Almost the entire investigation stood completed and as such no kind of loss would occasion to the investigating agency in case of granting of pre-bails to the accused.

9. The accused are ready to furnish appropriate sureties to the Court for their release on anticipatory bail.

10. With the said averments the accused requested the Court to grant them pre-bail for the offences covered by Cr.No.141/2022 of Amalapuram Town Police Station.

11. Learned Addl. Public Prosecutor for the State, by submitting the case diary and by stating that the offences are grave in nature opposed by further contending that release of the accused on pre-bail at this juncture would certainly cause unrecoupable loss to the investigating agency.

12. No oral or documentary evidence was let in by the accused and the prosecution.

13. Arguments of learned Counsel for accused and Addl. Public Prosecutor for the State are heard and perused the record in detail.

14. Hearing of both counsel and perusal of record leave a crucial point for consideration which is as to whether or not, the pre-bail petition deserves allowing.

Point :

15. Code of Criminal Procedure, though prescribes periods of 60 days and 90 days time for completion of investigation in respect of cases punishable with sentence not crossing 10 years and crossing 10 years respectively under Section 167 Cr.P.C., yet the said code mandates for swift completion of investigation under Section 173(1) Cr.P.C. and in proof of the same, the investigating officer is bound to show his case diary progress as mandated under Section 172(1) Cr.P.C.

16. Admittedly the submitted case diary did not contain any kind of progress in the case diary as mandated under Section 172 Cr.P.C. and further the stage of the investigation reflects as it was earlier without attaining any progress except progress in making arrests of some more accused.

17. In the arrayed offences covered by the crime in issue the major penal provision of the law is Section 307 IPC which is punishable with sentence upto life in case a causing hurt to the victim or sentence upto 10 years if no hurt is caused to the victim.

18. Irrespective of afore mentioned defined legal situation, in the schedule of Criminal Procedure Code the offence of Section 307 IPC was made triable by the Court of Assistant Sessions Judge which has power of imposing sentence upto 10 years alone and in addition to the same no alternative remedy as in the case of Section 325 Cr.P.C. was provided in the Code of Criminal Procedure for facilitating the Asst. Sessions Judge to seek permission from the District Court for imposing sentence crossing 10 years.

19. In view of the afore mentioned legal and factual situation this Court is of the firm view that the investigating agency has time of 60 days alone as mentioned in Section 167(2)(a)(ii) Cr.P.C. for completion of investigation of the matter covered by the crime in issue.

20. Admittedly the crime in issue came to be registered on 24-5-2022 and period of more than 90 days stood expired as of now from the date of registration of the said crime, but yet the investigating agency not only could not conclude

investigation of the matter but also could not show any kind seriaturum progress in its investigation.

21. In view of the afore reasons this Court felt that keeping the accused in Jail for any period certainly amounts to facilitating the investigating agency for its unwarranted but illegal sluggish conduction of investigation in the crime in issue and in such a case the precious bail right of the accused would be put to more breach than compliance.

22. On attentive perusal of the entire record this Court felt that release of the accused on pre-bail at this juncture does not cause any kind of prejudice or hardship to the investigating agency in collecting the left out evidence if any in connection with the crime in issue.

23. For the foregoing reasons, this Court holds that the accused are entitled to be granted with pre-bail.

24. In the result, the pre-bail petition of the Petitioners / Accused is allowed ordering release of the Petitioners / Accused on pre-bail on their execution of bonds each for an amount of Rs.25,000/- with two sureties for the like sum each to the satisfaction of the Station House Officer, Amalapuram Town Police Station, in the event of their arrest in connection with crime No.141/2022 of Amalapuram Town Police Station.

Dictated to Stenographer, transcribed by him, corrected and pronounced by me in the open Court on this the 29th day of October 2022.

Sd/- V.Naresh
II ADDL. DISTRICT & SESSIONS JUDGE
AMALAPURAM

Copy to
The Addl. J.F.C.Magistrate, Amalapuram
The SHO, Amalapuram Town PS
The Advocates for petitioners

// t.c.f.b.o. //

Superintendent
II Addl. District & Sessions Court,
Amalapuram

