

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE TWENTY SECOND DAY OF MARCH TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

AND

THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI

IA No. 1 OF 2024

IN

CRLA NO: 26 OF 2024

Between:

1. Batna Subbu @ Subrahmanyam, S/o. Satyanarayana, (A-1)
2. Batna Naga Someswara Rao, @ Shiva, S/o. Satyanarayana (A-2)
3. Sk. Kamruddin @ Kamru, S/o. Jilani, (A-4)

...Petitioners/Applants
(Petitioner in CRLA 26 OF 2024
on the file of High Court)

AND

The State of Telangana, rep., by its Public Prosecutor, High Court for the
State of Telangana at Hyderabad.

...Respondent
(Respondents in-do-)

Counsel for the Petitioners : Sri C SHARAN REDDY

Counsel for the Respondent : Addl. PUBLIC PROSECUTOR

Petition under Section 389 (1) of Cr PC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the execution of the sentence of imprisonment passed in S.C.No. 124 of 2019 on the file of the Principal Sessions Judge at Bhadradi Kothagudem and release petitioners on bail, pending disposal of CRLA No. 26 of 2024, on the file of the High Court.

The Court made the following: **ORDER**

HON'BLE SRI JUSTICE K. LAKSHMAN

AND

HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

I. A. No.1 OF 2024 IN CRIMINAL APPEAL No.26 OF 2024

ORDER: (Per Hon'ble Sri Justice K. Lakshman)

Heard Mr. C. Sharan Reddy, learned counsel for petitioners - accused Nos.1, 2 and 4 and Mrs. Shalini Saxena, learned Assistant Public Prosecutor appearing on behalf of respondent.

2. I.A. No.1 of 2024 is filed by the petitioners - appellant Nos.1, 2 and 4 - accused Nos.1, 2 and 4 to suspend the operation of sentence of imprisonment imposed by learned Principal Sessions Judge at Bhadradi - Kothagudem in S.C. No.124 of 2019 vide judgment dated 14.12.2023 and to release them on bail.

3. The petitioners herein are arraigned as accused Nos.1, 2 and 4 in S.C. No.124 of 2019. Vide impugned judgment dated 14.12.2023, learned Sessions Judge convicted petitioner Nos.1 and 4 herein for the offences under Sections - 448, 302 and 201 read with 34 of IPC and petitioner No.2 herein for the offence under Section - 120B of IPC and sentenced them to undergo life imprisonment etc.

4. Mr. C. Sharan Reddy, learned counsel appearing for the petitioners sought suspension of impugned judgment and grant of bail to the petitioners - appellants on the following grounds:

- i. There is no incriminating evidence found against the petitioners;
- ii. The petitioners were falsely implicated in the subject crime;
- iii. There are no eye-witnesses to the incident;
- iv. Entire case rests on circumstantial evidence;
- v. There are no chain of circumstances to connect the petitioners with the offences alleged against them;
- vi. There is no motive for commission of alleged offence;
- vii. PW.1, brother of the deceased, is the beneficiary of the death of the deceased on account of property disputes between them as his name was mutated in his name in the revenue records in respect of the property belonging to the deceased. However, PW.1 admitted that at the intervention of his family members, the name of deceased as mutated in place of the name of PW.1;
- viii. Medical evidence did not support the prosecution case as MO.5 - Axe did not contain any blood stains;
- ix. The telephonic conversations do not disclose any conspiracy among the petitioners herein.

- x. The time of death of the deceased is inconsistent as per evidence of PW.23;
- xi. Without considering all the said aspects, the trial Court recorded conviction against the petitioners; and
- xii. The petitioners have been in jail from 14.12.2023;

5. Learned Assistant Public Prosecutor opposed the bail petition on the following grounds:

- i. PW.1, brother of the deceased, has categorically deposed about the land dispute which led to the death of the deceased at the hands of the accused. The same was spoken to by PW.2, 3, 4, 6, 7 and 8;
- ii. There is motive on the part of the petitioners in commission of the aforesaid offences including criminal conspiracy;
- iii. As per evidence of PW.23, the doctor, who conducted autopsy over the dead body of the deceased and Ex.P18 - postmortem examination report, there were ante-mortem injuries on the dead body of the deceased;
- iv. The prosecution could prove the motive on the part of the accused in commission of offence;
- v. There is other evidence available on record to prove the case of prosecution;

- vi. The evidence adduced by the prosecution was sufficient to record conviction of the petitioner - accused;
- vii. On consideration of entire evidence, both oral and documentary, the learned Sessions Judge recorded conviction against the petitioners, and there is no error in it; and
- viii. The offence committed by the accused is serious and grave in nature and, therefore, the petitioners are not entitled for bail.

6. Perusal of the record would disclose that there is a land dispute between the deceased and accused Nos.1 to 3 in respect of 857 square yards in Survey No.1130/27/1 situated at Attenders' Colony, Aswaraopet. Accused Nos.1 to 3 threatened the deceased to sell the said land to them at cheaper rate for which the deceased was not interested. Even when accused Nos.1 to 3 tried to encroach upon the land of the deceased, the same was resisted by the deceased. Accused Nos.1 to 3 also threatened the deceased with dire consequences. PWs.1 to 4 and 6 to 8 spoke on the said aspects. Therefore, accused Nos.1 to 3 bore grudge against the deceased and said to have killed him with the help of accused No.4, who is a friend of accused No.1. Accused No.1 and 2 are brothers, while accused No.3 is their mother, who is acquitted of the aforesaid offences. PW.3, whose mother purchased house from the

deceased, deposed that 27.10.2018 morning at about 7.00 or 7.30 A.M., the deceased called him over phone and requested him to come to his land stating that there was a *galata*. By the time he went the spot, accused No.2 was quarrelling with the deceased. He intervened and separated them. At about 10.00 or 10.30 A.M., accused No.1 and 4 came in a car to the house of accused No.1. After completion of fencing work, he dropped the deceased in his house and left to his home. On the next day morning, when he went to the house of the deceased to give tiffin, he went inside and saw the deceased dead body and found injuries on his head and backside of neck.

7. As per the evidence of PW.18, *panch* witness, accused No.1 said to have confessed about guilt of murder of the deceased. Pursuant to his confessional statement, they proceeded to the place near Paper Mill located by the side of the road leads to Jangareddygudem where accused No.1 picked out the Axe from the bushes and showed it to them. The police seized the same under Ex.P13 - seizure *panchanama*. MO.5 is the said Axe which is said to have used in the commission of offence.

8. Similarly, as per the evidence of PW.19, accused No.4 is said to have admitted his guilt of murder of the deceased. Pursuant to his

confessional statement, MO.6 - Axe used in the commission of offence was recovered at the instance of accused No.4 and the same was seized under Ex.P14 - seizure *panchanama*.

9. Coming to the medical evidence, PW.23, the doctor, who conducted autopsy over the dead body of the deceased, categorically deposed that he found the ante-mortem injuries over the dead body of the deceased. According to him, the cause of death was due to 'severe hypovolemic shock', which is normally caused on account of injuries over the dead body.

10. On consideration of the said evidence, both oral and documentary, the trial Court recorded conviction against the petitioners herein. *Prima facie*, there are specific overt acts against them and the offences committed by them are serious and grave in nature. They are languishing in jail from 14.12.2023. Learned counsel for the petitioner has raised several grounds and contentions, but the same will be considered at the time of hearing the appeal itself. Analysis of evidence of witnesses while considering bail application is impermissible as held

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by the Hon'ble Supreme Court in **Omprakash Sahni v. Jai Shankar Chaudhary**¹.

In the light of the aforesaid discussion, we are not inclined to grant bail to the petitioners. The present bail application is liable to be dismissed and the same is accordingly dismissed.

SD/-T.JAYASREE
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Sessions Judge at Bhadradi Kothagudem.
2. The Addl. Judicial Magistrate of First Class, Sathupally.
3. The Superintendent, Chanchalguda Prison, Hyderabad.
4. One CC to SRI. C SHARAN REDDY, Advocate [OPUC]
5. Two CCs to the PUBLIC PROSECUTOR, High Court at Hyderabad [OUT]
6. Two spare copies.

¹. (2023) 6 SCC 123

HIGH COURT

KLJ
&
JSJ

DATED:22/03/2024

POST ON 28.08.2024

ORDER

IA.No.1 of 2024

IN

CRLA.No.26 of 2024

IA IS DISMISSED

