

HIGH COURT FOR THE STATE OF TELANGANA

MAIN CASE: CrI.A.Nos.857 and 906 of 2023

PROCEEDING SHEET

Sl. No	DATE	ORDER	OFFICE NOTE
	06.05.2026	<u>KL, J & BRMR, J</u> <u>I.A.No.1 of 2026 in CrI.A.No.857 of 2023</u> <u>&</u> <u>I.A.No.1 of 2026 in CrI.A.No.906 of 2023</u> Heard Smt. C. Vasundhara Reddy, learned counsel appearing for petitioner/accused No.6 in I.A.No.1 of 2026 in CrI.A.No.857 of 2026 and petitioner/accused No.5 in I.A.No.1 of 2026 in CrI.A.No.906 of 2023 and Sri Syed Yasar Mamoon, learned Assistant Public Prosecutor appearing for the respondent-State. The petitioners herein are A5 and A6 in Sessions Case No.226 of 2015 on the file of the learned II Additional Sessions Judge, Nalgonda (for short, 'trial Court'). <i>Vide</i> the impugned judgment dated 01.09.2023, the learned trial Court convicted them for the offences punishable under Sections 147, 148, 302 and 307 read with Section 149 of IPC to undergo imprisonment for life. They are in jail from 01.09.2023. Learned counsel for the petitioners would contend that in Ex.P1-complaint, the names of the petitioners are not there and even according to PW.2-follower of the deceased Sarpanch, he has informed about the incident to PW1-wife of the deceased. Even then, she has not mentioned the names of the petitioners in the complaint. PW.1 is not an eyewitness. She lodged complaint based on the information furnished by PW.2. PW.2, instead of going to Police Station	

		and lodging complaint, he has gone to CPM party office and informed the said fact to PW-5-Secretary, CPM party, Kodad. PW.5 spoke about the said fact and during cross-examination he has admitted that while going to CPM party office; PW.2 has to cross the Police Station which is in between the Police Station and the Hospital. PW.5 admitted the said fact. Learned trial Court, having acquitted both the petitioners for the offences 120-B, 153(A) and 201 IPC, convicted them for the offences punishable under Sections 147, 148, 302 and 307 read with Section 149 of IPC. Learned counsel for the petitioners also relies on the principle laid down by the Hon'ble Supreme Court in <i>Vijay Pandurang Thakre v. State of Maharashtra [(2017) 4 SCC 377]</i>. Even as per the confession of A5 and A6, A2 and A3 used the weapons and requested A5 to throw the weapons in Krishna river, they have requested the A6 to burn blood stained clothes. Therefore, at the most, the offence under Section 201 of IPC would attract and not Sections 302 IPC and 149 IPC. Even there are no specific overt acts against both the petitioners. They have not used any weapons. Nothing was recovered from them due to political rivalry, as in the present case, they are in jail from 01.09.2023. Without considering the said aspects, learned trial Court convicted the petitioners for the aforesaid offences and imposed the sentences in the manner stated supra. There are fair chances of the petitioners succeeding in the present appeals. They are in jail from 01.09.2023.	
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	Whereas, learned Additional Public Prosecutor would contend that PW.2 is an eye-witness and he spoke about the presence of the petitioners. PW.1 is the wife of the deceased and she lodged complaint based on the information furnished by PW.2. PW.3, who is another eye witness, turned hostile, whose evidence to the extent it is useful can be considered. There is also recovery of weapons from the accused. On consideration of the said aspects only, learned trial Court convicted both the accused for the aforesaid offences and sentenced them to life imprisonment. The offences are serious and grave in nature. In the light of the aforesaid submissions, it is apt to note that the present applications are the second bail applications filed by A5 and A6. There is no dispute with regard to the legal position that successive bail applications are maintainable. However, the accused has to establish that there is change of circumstances from the date of dismissal of the first bail application till filing the second bail application. PW.2 is an eye witness to the incident. In his evidence, he specifically spoke about the entire incident and that when he got up and turned around, he found A1, A2, A3 and A5 and two others getting down from the car. The said two persons are A4 and A6 and all the accused were armed with axes and knives. After, they got down from the car, they started chasing the deceased. Then the deceased crossed to the left from the approach road to the plain fields and by that time, the above said accused reached the	
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		deceased. By that time, PW.2 was on the high way. The accused caught the deceased and hacked him with axes and knives. Seeing the same, he was scared and as such, he ran away towards Balaji Nagar for a kilometer and on the way, he made phone call to PW.1 and informed about the incident. After going for a kilometer, he found old godown and hide in the same. While, he was escaping from the place of offence, A5 threw the sword on him, but as he was at distance, he could not catch him. He further deposed that he hid in the godown for about twenty minutes and went to the CPM party office, which is in Kodad. There, one of the member of the CPM party by name Muthyalu (PW.5) was present and informed the incident to him. After coming to know about the murder of the deceased, number of people came to CPM party office. Even then, nothing useful was elicited from him during the cross-examination. PW.3 is also an eye witness. However, he turned hostile. In his chief-examination, he specifically stated that deceased is no more, on 30.01.2011, he was murdered. He stated that he do not know how that incident took place. He knows that PW.1 lodged complaint about death of her husband. After registering the case, the Police recorded her statement. The Police also questioned him and reduced it into writing. He saw the accused only in the village and he did not see him anywhere else. During cross-examination, he has specifically admitted that in his village, there are political rivalries between members of Congress and CPM party. He has further admitted that earlier a case was registered against the present accused on the ground that	
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	they threatened the witnesses and in that case, he gave evidence. Though he turned hostile, his evidence can be relied upon. PW.5 is Secretary of CPM Party also specifically deposed that on 30.01.2014, while he was in CPM Office, Kodad at about 10:00 AM, PW.2 came to office with bandage to his hand and when he asked about the incident, he claimed that on that day he and deceased, while going on motor cycle, when they reached approach road of Kodad, accused came in a white colour car, dashed the motor cycle from behind. The deceased and PW.2 fell down and then the accused armed with swords and axes chased the deceased and hacked him. Both the petitioners made confessions and on their confession, the investigating officer has recovered MO.44. As discussed supra, the incident was at about 8:40AM or 8:50 AM i.e., in day light. PW.22 is the Doctor who treated PW.2, conducted autopsy over the dead body of the deceased and issued PME Certificate. On considering of the said aspects only, the learned trial Court convicted the petitioners for the aforesaid offences and sentenced them to undergo life imprisonment. As discussed supra, the present applications are second bail applications filed by petitioners/A5 and A6. This Court dismissed their earlier applications. Therefore, we are of the considered opinion that there is no change and circumstances from the said date till today.	
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Analysis of evidence of prosecution witnesses while consider bail application is impermissible. The said principle was also laid down by the Hon'ble Supreme Court in *Om Prakash Sahni v. Jai Shanker Chaudhary* [(2023) 6 SCC 123] and also followed in *Rajesh Upadhayay v. State of Bihar* [2025 INSC 1468].

This Court dismissed the earlier bail applications filed by A5 and A6 and while dismissing the said bail applications, this Court also considered that the village to which they belong to is a faction village. PW-3 spoke about the said fact. In the light of the same, we are not inclined to grant bail to the petitioners/A5 and A6.

Accordingly these applications are dismissed.

KL, J

BRMR, J

Crl.A.Nos.857 and 906 of 2023

List on 29.07.2026

b/o.

Hk/Smk

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