

HON'BLE SRI JUSTICE K. LAKSHMAN

AND

HON'BLE SMT. JUSTICE K. SUJANA

I. A. Nos.1 TO 3 OF 2023 IN CRIMINAL APPEAL No.2159 OF 2018

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

Heard Mr. K. Joseph, learned counsel for petitioners - accused Nos.1 and 5, Mr. Kadiyam Neelakanteswara Rao, learned counsel for the petitioner - accused No.2 and Mr. T.V. Ramana Rao, learned Additional Public Prosecutor appearing on behalf of the respondent.

2. The petitioners herein - accused Nos.1, 2 and 5 filed the aforesaid applications to suspend the execution of sentence passed by learned Special Sessions Judge for trial of Offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act - cum - VII Additional District Judge, Ranga Reddy District, in SC/ST S.C. No.49 of 2017.

3. Vide the impugned judgment dated 26.06.2018 in SC/ST S.C. No.49 of 2017, the learned Sessions Judge convicted the petitioners herein for the offences under Sections - 302 and 201 read with 34 of IPC and Section - 3 (2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, and accordingly imposed sentence of life imprisonment on them. They are in jail from 26.06.2018.

4. Both the learned counsel appearing on behalf of the petitioners would submit that there are no eye-witnesses to the occurrence. PWs.2 and 3, who are neighbours of the petitioners, did not speak that they saw beating the deceased by the petitioners, and at the most they deposed that the petitioners picked up quarrel with the deceased. Further, PW.3 has some disputes with accused No.2 and out of such animosity she deposed against the petitioners. The learned Sessions Judge on one hand observed that the evidence of PWs.1 and 4 is only hearsay as they are family members of the deceased and residing far away from the scene of offence, and on the other hand recorded conviction relying on the said evidence. The Investigating Officer did not collect the finger prints of the accused on the material objects i.e., sticks and stones (MOs.7 to 11), which were alleged to have used by the petitioners for causing death of the deceased. The petitioners were falsely implicated in the above case. There are no specific overt acts against the petitioners. Without considering the said aspects, only relying on circumstantial evidence, the learned Sessions Judge recorded conviction.

5. They would further submit that accused Nos.1 and 2 are women. Accused No.1 is suffering from permanent disability to an extent of 71% of left lower limb. In proof of the same, they have filed

copy of Certificate for Person with Disability, dated 05.07.2014 issued by the Medical Board, District Hospital, Hyderabad. Accused No.2 is suffering from old age-aliments. Accused No.5 is a painter. He has two children and sole bread winner of his family. All the petitioners are serving sentence of life imprisonment since 26.06.2018 i.e., more than five (04) years. With the said submissions, they sought to grant bail to the petitioners herein by suspending the sentence of imprisonments imposed on them.

6. On the other hand, learned Additional Public Prosecutor, would contend that there are specific overt acts against the petitioners - accused Nos.1, 2 and 5. There is specific evidence against them with regard to commission of offence. The evidence of PWs.2 and 3 is trustworthy to prove the guilty of the accused. Further, the evidence of PWs.1 to 8 was corroborated by medical evidence of PW.9, the doctor and Ex.P15 - PME report and Ex.P22 FSL report. As per the evidence of PW.9, the deceased sustained 12 anti-mortem injuries all over his body and cause of the death was due to multiple injuries, which were possible with MOs.7 to 11. Considering all the said aspects, the learned Sessions Judge recorded conviction against the petitioners. The allegations

levelled against the petitioners are serious in nature and that there are specific overt acts against them.

7. The case of the prosecution is that the deceased - Boska Samson @ Shyam belonged to SC-Madiga Caste Community. Accused Nos.1, 2, 4 and 5 belongs to BC-D Mudiraj while Accused No.3 belongs to BC-D Golla by caste. The deceased maintained relationship with accused No.1. Accused No.2 is the mother of accused No.1. Accused No.3 is the known person to them. Accused No.4 is the sister-in-law of accused No.1 and accused No.5 is the own brother of accused No.1. Accused Nos.1, 2, 4 and 5 are residednts of H.No.11-21-1398, near Chinthachetla Bus Stop, NTR Nagar, L.B. Nagar. The deceased left his wife and children at his native place Nalgonda District about six (06) years back from the date of incident, and since then, he started living with accused No.1 at the aforesaid house. Prior to the incident, the deceased requested accused No.4 and forced to fulfill his sexual desire. Then accused No.4 informed the same to other accused Nos.1, 2, 3 and 5. Upon the same, all the accused hatched a plan to get rid of the deceased forever. Accordingly, on 13.09.2015 in the afternoon hours, accused Nos.1 to 5 picked up quarrel with the deceased and beat him mercilessly by sticks and shabad stones and thrown him in their room

and in the night hours against accused murdered the deceased by beating him and concealed in room.

8. The learned Sessions Judge considering the evidence, both oral and documentary, recorded conviction and imposed sentence of life imprisonment. Challenging the same, the petitioners and other accused preferred the above appeal. Since 26.06.2018, the petitioners are serving the sentence of life imprisonment in Central Prison, Chenchalguda, Hyderabad.

9. Perusal of the record would reveal that as per prosecution, the deceased was staying with accused No.1 since three years and they maintained relationship. He deserted his wife and children. When the deceased asked accused No.4, sister-in-law of accused No.1, to fulfill his sexual desire, the accused got angry and beat him. There was delay in lodging complaint. The learned Sessions Judge held that the evidence of PWs.2 and 3 seems to be trust worthy, even then convicted the petitioners and imposed sentence of life imprisonment. Several grounds and contentions raised by both sides and the same will be considered at the time of hearing the appeal finally.

10. As stated above, accused Nos.1 and 2 are women. Perusal of copy of Disability Certificate, dated 05.07.2014 would disclose that

accused No.1 is suffering from permanent disability to the extent of 71% of left lower limb. Accused No.2 is suffering from old age-aliments. Further, accused No.5, a painter, has two children and he is the sole bread winner of his family. They are serving the life imprisonment from 26.06.2018.

11. In **Batchu Ranga Rao v. State of A.P.**¹, a Division Bench of this Court evolved criteria for disposal of criminal appeals and granting of *interim* bails to the convicts, and the relevant paragraph is extracted as under:

“On considering their valuable suggestions and after a thorough evaluation of the relevant factors, we are inclined to indicate broad criteria on which the applications for grant of bail pending the Criminal Appeals filed against the conviction for the offences, including the one under Section-302 IPC, and sentencing of the appellants to life among other allied sentences, are to be considered. Accordingly, we evolve the following criteria:

- 1) A person who is convicted for life and whose appeal is pending before this Court is entitled to apply for bail after he has undergone a minimum of five years imprisonment following his conviction;

¹. 2016 (3) ALT (CrI.) 505 (DB) (AP)

2) Grant of bail in favour of persons falling in (1) supra shall be subject to his good conduct in the jail, as reported by the respective Jail Superintendents;

3) In the following categories of cases, the convicts will not be entitled to be released on bail, despite their satisfying the criteria in (1) and (2) supra:

The offences relating to rape coupled with murder of minor children dacoity, murder for gain, kidnapping for ransom, killing of the public servants, the offences falling under the National Security Act and the offences pertaining to narcotic drugs.

4) While granting bail, the two following conditions apart from usual conditions have to be imposed, viz., (1) the appellants on bail must be present before the Court at the time of hearing of the Criminal Appeals; and (2) they must report in the respective Police Stations once in a month during the bail period.

This broad criteria cannot be understood as invariable principles and the Bench hearing the bail applications may exercise its discretion either for granting or rejecting the bail based on the facts of each case. Needless to observe that grant of bail based on these principles shall, however, be subject to the provisions of Section-389 of the Code of Criminal Procedure.”

12. Having regard to the fact that accused Nos.1 and 2 being women and accused No.2 is suffering from 71% disability and also the

fact that all the petitioners are serving the life imprisonment more than five (05) years, they are entitled for benefit under the criteria evolved by the Division Bench in **Batchu Ranga Rao (Supra)**. In the light of the aforesaid decision, we are inclined to grant bail to the petitioners - accused Nos.1, 2 and 5.

All these petitions are accordingly allowed granting bail to the petitioners - appellant Nos.1, 2 and 5 (accused Nos.1, 2 and 5), *namely* Madapati Gowri S/o late Vinod; Mahila Anasuya W/o Ramanjaneyulu and Mahila Srinivas S/o late Ramanjaneyulu, on their executing personal bonds for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with two (02) sureties each for a like sum each to the satisfaction of Special Sessions Judge for trial of Offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act - cum - VII Additional District Judge, Ranga Reddy District. During bail, they shall not indulge in any criminal acts.

K. LAKSHMAN, J

K. SUJANA, J

15th September, 2023
Mgr