

HIGH COURT FOR THE STATE OF TELANGANA

MAIN CASE: CrI.A.No.545 of 2022
PROCEEDING SHEET

Sl. No	DATE	ORDER	OFFICE NOTE
	15.06.2026	<u>KL,J & BRMR,J</u> <u>I.A.No.1 of 2024</u> Heard Smt.C.Vasundhara Reddy, learned counsel for the petitioner and Dr.S.Prashanth, learned Assistant Public Prosecutor. Petitioner is Accused No.2 in S.C. No.255 of 2018. <i>Vide</i> impugned judgment dated 14.07.2022, learned Principal Sessions Judge at Adilabad, convicted him for the offences under Sections 449, 120B and 302 r/w 34 of IPC and sentenced him to undergo life imprisonment. Learned counsel for the petitioner would contend that there is discrepancy with regard to the age of P.W.10, sole eye witness. She was tutored eye witness. Her evidence is not reliable. In Ex.P1, her reference was not there. P.W.10 was examined five (5) days after the incident. There is discrepancy with regard to relationship between A1 and A2. The identification of A2 is also doubtful. There are contradictions in the prosecution witnesses. On the complaint lodged by P.W.1, police have registered Ex.P13 FIR against six accused. During the course of investigation, the Investigating Officer deleted the names of A4 to A6 and the petitioner herein is A2 is also stands on the very	

	same footing. None of the witnesses, including villagers, spoke about the relationship between A1 and A2 or the role played by A2 in the commission of the offence. With regard to age, P.Ws.8, 9 and 20 specifically admitted during the course of cross-examination. There was no meeting of minds between A1 and A2. Without considering the said aspects, learned trial Court convicted the petitioner herein and imposed maximum sentence of life imprisonment. There are fair chances of petitioner succeeding in the present appeal. Whereas, learned Assistant Public Prosecutor would contend that the deposition of P.W.10, sole eye witness is reliable. P.Ws.8 and 9 have specifically deposed about the relationship between A1 and A2. The evidence of P.W.17, who conducted the autopsy over the dead body of the deceased specifically stated with regard to multiple injuries received by the deceased. Almost all the witnesses spoke about the relationship between A1 and A2. On consideration of the said aspects, learned trial Court convicted him for the aforesaid offense and sentenced him to undergo life imprisonment. The offence committed by him is serious and heinous in nature. In the light of the said submissions, it is apt to note that the first bail application filed by the petitioner/A2 along with A1 was dismissed by this Court vide order	
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		dated 13.03.2025 in I.A.No.2 of 2022. There is no dispute with regard to the maintainability of the successive bail application, but the petitioner has to establish changed circumstances, more particularly, substantial change of circumstances. P.W.10 is the daughter of A3 and the deceased. In the charge sheet, her age is mentioned as four years. Contrary to the same, P.W.20/Investigating Officer deposed that her age is 2 years as on the date of the incident. Though, there is some discrepancy with regard to the age of P.W.10, the same can be considered at the time of hearing of the appeal finally. The said aspect cannot be considered while deciding an application seeking bail. It is the specific case of the prosecution that A1 maintained illicit relation with A2. The deceased is the daughter-in-law of A1, who questioned the same. Therefore, both of them bore grudge against the deceased and do away life of the deceased in the absence of A3. P.W.17, the Doctor, who conducted autopsy over the dead body of the deceased specifically held that there are multiple injuries over the dead body of the deceased and the cause of death is due to cardio respiratory arrest due to asphyxia due to strangulation. Ex.P11 is the final opinion of P.W.17. On consideration of the said aspects only, we have dismissed the first bail application filed by the	
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		petitioner. While discussing the first bail application, we have considered the evidentiary value of the child witness and also the principles laid down by Hon'ble Apex Court in the case of the State of Madhya Pradesh v. Balveer Singh¹. Learned counsel for the petitioner has placed reliance on the principle laid down by the Hon'ble Apex Court in Bhagwan Singh and others v. State of M.P.², wherein the Hon'ble Apex Court held that the law recognizes the child as a competent witnesses but a child particularly at such a tender age of six years, who is unable to form a proper opinion about the nature of the incident because of immaturity of understanding. In the aforesaid case, conviction was based on the solitary testimony of the child witness. The other evidence is not corroborated with the child witness. But in the present case, the facts are slightly different. With regard to maintenance of illicit relationship between A1 and A2, the child witness i.e., P.W.10 had specifically spoken about the same. Therefore, the principle laid down by the Hon'ble Apex Court in the aforesaid judgment is not applicable to the present case. As discussed supra, petitioner has failed to establish change of circumstances, much less substantial change of circumstances from 13.03.2025 to today.	
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¹ 2025 INSC 261

² (2003) 3 Supreme Court Cases 21

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