

**HON'BLE SRI JUSTICE RAVI CHEEMALAPATI****CRIMINAL PETITION Nos. 7232, 7187 and 7231 of 2022****COMMON ORDER:**

These Criminal Petitions are filed under Sections 437 & 439 of Criminal Procedure Code ('Cr.P.C.' in short), seeking bail, by the petitioners/A1 & A3, petitioner/A2 and petitioners/A13, A19, A21, A23 and A25 respectively, in Crime No.130 of 2022 of Ramakuppam Police Station, Chittoor District, registered for the offence punishable under Sections 143, 147, 148, 307, 324 read with Section 149 of the Indian Penal Code.

2. The petitioners in these Criminal Petitions are accused in the same crime and hence they are being heard and disposed of by this common order.

3. The case of the prosecution, in brief, is that the *de facto* complainant is a sympathizer of YSR Congress party and on 24.08.2022 at about 4.30 p.m., when he was at Kollupalli Suresh Reddy's house near Konganapalli-Kollupalli road, he found that a group of sympathizers of TDP, led by A-1, who is former MLC, were tearing the YSRCP flags and when the de facto complainant asked them as to why they were removing the flags, A-1 shouted at him that their party flags

should not be there as their leader was coming on tour and on A-1's instructions , A-2 and A-3 caught hold of him and then A-1 hit him on head with a wooden stick and caused bleeding injury stating that if they kill them the others would fear and two other co-accused attacked Kasinath, Annaiah and others and caused injuries and when the de facto complainant and others tried to flee away from there, the accused pelted stones at them and chased them holding sticks shouting at them to kill and in the meantime some villagers came there and rescued them.

4. Heard Sri *Posani Venkateswarlu*, learned senior counsel, for Sri Ginjupalli Subba Rao, learned counsel for the petitioners and Sri *Y. Nagi Reddy*, learned Public Prosecutor for the respondent-State.

5. Sri *Posani Venkateswarlu*, learned senior counsel, would submit that, the ingredients in the complaint do not disclose any offence much less the offence punishable under Section 307 IPC and the same has been included only to deny the benefits of Section 41-A CrPC and also grant of bail. He would further submit that intention to kill has to be ascertained from the weapon used, part of the body chosen for assault and nature of the injury caused. In the instant case, according to the prosecution, the weapons of offence are sticks and the

injuries alleged to have been caused are on non-vital parts of the body. Thus, if the allegations in the FIR are taken to be true at their face value, at best they attract the offence punishable under Section 308 of IPC.

The learned senior counsel would further submit that a glance at the contents of the FIR would unequivocally shows that this case has been foisted against the petitioners and others by the de facto complainant, since they are sympathizers of opposite political party. He would further submit that the overt acts attributed against the petitioners are vague and omnibus in nature.

The learned senior counsel would further submit that when a large group of people attacks with an intention to kill, the nature of injuries would not be simple and this also rules out the possibility of any intention to kill on the part of the petitioners and other co-accused.

The learned senior counsel would further submit that, earlier, the petitioners in Criminal Petition Nos. 7232 and 7231 of 2022 got filed Crl.M.P.Nos.967 of 2022 and 965 of 2022 for grant of bail and they were dismissed by the learned Sessions Judge on 07.09.2022 on the ground that investigation is pending. He would further submit that thereafter substantial part of the investigation is completed.

The learned senior counsel further submitted that the petitioners in Criminal Petition Nos.7231 & 7232 of 2022 have been languishing in jail since 27.08.2022 & the Criminal Petition No.7187 of 2022 has been languishing in jail since 06.09.2022 and the petitioners are law-abiding citizens and they will abide by any conditions imposed by this Court and they will cooperate with the investigation.

On the above contentions, the learned counsel for the petitioners sought for grant of bail and prayed to allow this petition.

6. On the other hand, Sri Y. Nagi Reddy, learned Public Prosecutor, would submit that mere intention to kill is sufficient to attract the offence punishable under Section 307 IPC and nature of injury and the part of the body whereon it is caused is immaterial. In support of his contention, reliance is placed in ***Vasant Vithu Jadhav vs. State of Maharashtra***<sup>1</sup>.

The learned Public Prosecutor would further submit that the petitioners along with others having been frustrated on account of the presence of the flags of their opposite party, with a view to eliminate their political opponents in the village in order to create havoc and threaten the sympathizers of their opposite political party, attacked the

---

<sup>1</sup>. (2004) 9 SCC 31

de facto complainant and others and tried to kill them. Specific overt acts have been attributed against each of the petitioners. The investigation is at crucial stage and if the petitioners are granted bail, they will try to threaten the de facto complainant and other witnesses connected with this case and impede the progress of investigation. Hence, prayed to dismiss the application.

7. In the decision relied on by the learned Public Prosecutor, their Lordships of Hon'ble Supreme Court, at para-10 , held thus:

"10. It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. The Section makes a distinction between the act of the accused and its result, if any. The Court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under the circumstances mentioned in the section. Therefore, it is not correct to acquit an accused of the charge under Section 307 IPC merely because the injuries inflicted on the victim were in the nature of a simple hurt."

8. The observations of their Lordships in the above decision shows that mere intention to kill is sufficient and corresponding bodily injury capable of causing is not essential to constitute an offence punishable under Section 307 IPC.

9. Perused the report and considered the submissions made by both the learned counsel. The petitioners in Criminal Petition Nos.7232

& 7231 have been in judicial custody since 27.08.2022, whereas the petitioner in Criminal Petition No.7187 of 2022 has been in judicial custody since 06.09.2022. The contents of the FIR clearly go to show that this case is outcome of animosity between two warring political groups. The weapons of offence are sticks and stones and the injuries said to have been received by the injured are simple. Intention to kill is sufficient to constitute the offence under Section 307 IPC. However, since the contents of the FIR clearly show that, there was deep seated animosity between two warring political groups, it is not at all safe to apply the above said principle of law at this stage of deciding the application filed for grant of bail, in light of the weapons of offence used and the nature of injuries said to have been received by the injured. It can well be gone into at the time of appreciating the evidence after full dressed trial. The decision relied on by the learned Public Prosecutor cannot be considered while dealing with bail application. At this stage of considering the bail application, keeping in view the nature of injuries received and weapons of offence used, this Court prima facie holds that the ingredients to attract the offence punishable under Section 307 IPC are conspicuously absent as of now, and the contents of the FIR at best would attract the offence punishable under Section 308 IPC.

10. In view of the above, taking into consideration the period of judicial remand of the petitioners and as the nature of injuries alleged to have been caused to the injured being simple and as substantial part of the investigation is completed, this Court is inclined to grant bail to the petitioners, however, by taking care of the apprehension of the learned Special Assistant Public Prosecutor, on the following conditions:

- (i) The petitioners shall be released on bail on their executing self bond for Rs.25,000/- (Rupees twenty five thousand only) each with two sureties each for a like sum each to the satisfaction of the Additional Judicial Magistrate of First Class, Kuppam, Chittoor District, in connection with Cr.No.130 of 2022 of Ramakuppam Police Station, Chittoor District,
- (ii) On such release, the petitioners shall appear before the Station House Officer, Ramakuppam Police Station twice in a month on every 2<sup>nd</sup> & 4<sup>th</sup> Sunday in between 10.00 a.m. and 12.00 p.m. till filing of charge sheet;
- (iii) Apart from that, the petitioners shall make themselves available to the investigating officer and shall report before him as and when directed for the purpose of investigation
- (iv) The petitioners shall not directly or indirectly contact the complainant or any other witnesses under any circumstances and any such attempt shall be construed as an attempt of influencing the witnesses and shall co-operate with the process of investigation.

(v) Any infraction of the above conditions would entail cancellation of bail and the prosecution is at liberty to file application seeking cancellation of bail.

It is made clear that this order does not, in any manner, limit or restrict the rights of the police or the investigating agency from further investigation as per law and the findings in this order be construed as expression of opinion only for the limited purpose of considering bail in the above criminal petition and shall not have any bearing in any other proceeding.

Accordingly, the Criminal Petitions are **allowed**.

As a sequel, pending miscellaneous petitions shall stand closed.

---

**JUSTICE RAVI CHEEMALAPATI**

Dated: 23.09.2022.  
RR



**THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI**

**ALLOWED**

**CRIMINAL PETITION NOs.7232, 7187 & 7231 of 2022**

**Date : 23.09.2022**

RR