

HON'BLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.15432 OF 2024

ORAL ORDER:

Heard Mr. L. Ravichander, learned Senior Counsel representing Mr. Mamidi Avinash Reddy, learned counsel for the petitioner, Mr. Jithender Rao Veeramalla, learned Additional Public Prosecutor appearing on behalf of respondent No.1 - State and Mr. Enuganti Sudhanshu Rao, learned counsel for respondent No.2.

2. This Criminal Petition is filed under Section - 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') to grant anticipatory bail to the petitioner herein in Crime No.645 of 2024 pending on the file of Pahadishareef Police Station, Rachakonda Commissionerate.

3. As per the statement of respondent No.2, dated 10.12.2024, the allegations leveled against the petitioner herein are as follows:

i) On 10.12.2024 in the night approximately 19:50 hours, he being Journalist went to the house of petitioner at Jalpally for news coverage. The son of the petitioner, Mr. Manchu Manoj, came there, opened the farmhouse gate, called him and other Media Reporters inside and requested them to cover news.

ii) At about 20:05 hours, respondent No.2 along with other reporters went inside the house as requested by the petitioner's son, then respondent No.2 questioned the petitioner placing mike, immediately the petitioner heatedly grabbed TV9 Mike (stainless steel metal) and beat him with the said mike at his left eye and in the midst under ear part due to which he received severe injury.

iii) Hence, he requested the police to take necessary action against the petitioner.

4. On receipt of the said report, the police of Pahadishareef registered a case in Crime No.645 of 2024 against the petitioner for the offences punishable under Sections - 329 (4), 115 (2) and 351 (2) read with 3 (5) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS').

5. The Investigating Officer re-recorded the statement of respondent No.2 on 11.12.2024, wherein respondent No.2 has specifically stated that he received serious injury in between eye and ear and there was swelling. Initially, he joined in Trident Hospital, Shamshabad for first aid, and thereafter, he was shifted to Yashoda Hospital, Somajiguda, Hyderabad, for better treatment.

6. The Investigating Officer has obtained Medico-Legal Record of respondent No.2 from Yashoda Hospital, wherein it is stated that respondent No.2 received a grievous injury i.e., left cheek swelling with 4 x 4 cm., abrasion. In the said Medico - Legal Record, it is also mentioned as “Left Zygomatic Arch fracture 2° to assault”. He underwent surgery. Respondent No.2 has filed counter along with entire discharge summary. Perusal of the same would reveal that respondent No.2 was admitted in Yashoda Hospital on 11.12.2024, underwent surgery on the same day itself and he was discharged from the hospital on 15.12.2024. He has been on medication. Therefore, on consideration of the said statement, statements of two other eye witnesses and medical report, the Investigating Officer filed a memo dated 11.12.2024 altering Section of Law to 109 (1) of BNS from the existing section of law under Section - 118 (1) of BNS. Therefore, according to learned Additional Public Prosecutor, the petitioner with an intention to kill respondent No.2, attacked him with mike. Investigation is pending. The petitioner is a Former Member of Parliament (Rajya Sabha) and he is an influential person and there is every possibility of the petitioner interfering with investigation.

7. Whereas, Mr. L. Ravichander, learned Senior Counsel appearing for the petitioner, would contend that there is improvement in the statement of respondent No.2 dated 11.12.2024. There was no occasion for the Investigating Officer to re-record the statement of respondent No.2. Contents of first and second statement of respondent No.2 and statements of two (02) eye-witnesses lack the ingredients of Section - 109 (1) of BNS. There is no intention on the part of the petitioner to kill respondent No.2 or he had no knowledge that his act would cause receive grievous injury. Even then, the Investigating Officer filed the aforesaid alteration memo dated 11.12.2024 altering section of law to Section - 109 (1) of BNS from the existing section of law. Thus, punishment for the aforesaid offences except the offence under Section 109 of BNS, is below 7 years. Therefore, the petitioner is entitled for benefit under Section - 35 (3) of the BNSS.

8. Whereas, both learned Additional Public Prosecutor and learned counsel for respondent No.2, would contend that this is an application for anticipatory bail, and on consideration of all the aspects only, the Investigating Officer filed the aforesaid alteration memo. The petitioner met respondent No.2 in the Hospital on

15.12.2024. Referring to the same, learned Additional Public Prosecutor and learned counsel for respondent No.2, would contend that the petitioner is trying to influence respondent No.2 and also interfere with the investigation in the subject crime. Therefore, he is not entitled for anticipatory bail.

9. Learned counsel for respondent No.2, on instructions, submitted that the petitioner is not in India and he fled to Dubai, whereas the same was disputed by learned counsel for the petitioner. Therefore, this Court directed both learned counsel for the petitioner and respondent No.2 to file affidavits to the said effect. The petitioner filed affidavit stating that he is required to travel extensively on his work commitments in the film industry. Few days back, he travelled abroad to meet his grandchildren and elder daughter-in-law, who live in Dubai as they panicked with the outbreak of serious family feud at his house leading to registration of multiple FIRs and were worried about his well-being. At present, he is in Tirupati and he is discharging his regular duties as Chancellor and Trustee of Sri Vidyaniketan Educational Trust and Mohan Babu University, respectively. Respondent No.2 in his affidavit specifically mentioned

the flight number etc. Thus, by way of this, after the incident, the petitioner travelled to Dubai.

10. In **Siddharam Satlingappa Mhetre v. State of Maharashtra**¹, the Hon'ble Supreme Court laid down certain parameters that can be demonstrated while dealing with anticipatory bail and it is relevant and same is extracted below:

“121. No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail. We are clearly of the view that no attempt should be made to provide rigid and inflexible guidelines in this respect because all circumstances and situations of future cannot be clearly visualized for the grant or refusal of anticipatory bail. In consonance with the legislative intention the grant or refusal of anticipatory bail should necessarily depend on facts and circumstances of each case. As aptly observed in the Constitution Bench decision in Sibbia's case (supra) that the High Court or the Court of Sessions to exercise their jurisdiction under section 438 Cr.P.C. by a wise and careful use of their discretion which by their long training and experience they are ideally suited to do. In any event, this is the legislative mandate which we are bound to respect and honour.

122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

¹. (2011) 1 SCC 694

- (i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- (ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
- (iii) The possibility of the applicant to flee from justice;
- (iv) The possibility of the accused's likelihood to repeat similar or the other offences.
- (v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
- (vi) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.
- (vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;
- (viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

(x) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

11. The Apex Court further held that arrest should be the last option and it should be restricted to those exceptional cases where arresting the accused is imperative in the facts and circumstances of that case. The Court must carefully examine the entire available record and particularly the allegations which have been directly attributed to the accused and these allegations are corroborated by other material and circumstances on record.

12. The Apex Court further held that the aforesaid factors are only illustrative. It is difficult to clearly visualize all situation and circumstances in which a person may pray for anticipatory bail. If a wide discretion is exercised by the concerned judge after consideration of entire material on record, then most of the grievances in favour of grant of or refusal of bail will be taken care of. The

legislature in its wisdom has entrusted the power to exercise this jurisdiction only to the judges of the superior Courts. In consonance with the legislative intention, the discretion would be properly exercised.

13. As discussed above, it is the specific case of prosecution that the son of the petitioner called respondent No.2 and other reporters into the house of the petitioner. On the said request, respondent No.2 and other reporters went into the house of the petitioner. Respondent No.2 being News Reporter, sought some information from the petitioner by keeping mike in front of him. The petitioner grabbed the said mike which is made of stainless steel, beat him with the said mike due to which respondent No.2 received grievous injury on his left eye and under his ear part. After taking first-aid in Trident Hospital, Shamshabad, he was shifted to Yashoda Hospital, Somajiguda for better treatment.

14. Perusal of discharge summary filed by respondent No.2 along with counter would reveal that respondent No.2 was admitted in Yashoda Hospital on 11.12.2024 and he underwent surgery on the same day itself. He was discharged from the hospital on 15.12.2024.

According to respondent No.2, he is on medication and taking liquid food through a pipe.

15. It is also not in dispute that after the incident, the petitioner fled to Dubai and he met respondent No.2 in Yashoda Hospital on 15.12.2024. There is no explanation from the petitioner with regard to the purpose of said meeting. On the other hand, it is the specific contention of respondent No.2 that the petitioner met him only to influence him and with a request to withdraw the aforesaid complaint.

16. It is also not in dispute that the petitioner is a Film Actor and he is a Former Member of Parliament (Rajya Sabha). Admittedly, there are disputes between the petitioner and his younger son.

17. Respondent No.2 received grievous injury and he underwent surgery. *Prima facie*, there are serious allegations against the petitioner. Investigation is pending. There is specific allegation against the petitioner that he is trying to influence respondent No.2 with a request to withdraw the present complaint and, thus, he is interfering with the investigation in the subject crime.

18. This is an application filed seeking anticipatory bail. Therefore, this Court cannot consider the contents of statements of respondent No.2, both first and second and also the statements of

other two eye witnesses to come to a conclusion that the same lacks the ingredients of Section - 109 (1) of the BNS.

19. Admittedly, after the incident, the petitioner fled to Dubai. He also met respondent No.2 in the Hospital on 15.12.2024. Learned Senior Counsel appearing for the petitioner did not dispute the said fact. There is no explanation from the petitioner with regard to the purpose of his meeting respondent No.2. Therefore, this Court is of the considered view that the petitioner tried to influence respondent No.2 at the hospital. Therefore, there is every possibility of the petitioner interfering with the investigation and thereby the Investigating Officer will not be in a position to conduct investigation in the subject crime in a fair and transparent manner. Thus, this Court is not inclined to grant anticipatory bail to the petitioner. The present petition fails and is liable to be dismissed.

20. The present Criminal Petition is accordingly dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending in the criminal petition shall stand closed.

23rd December, 2024
Mgr

K. LAKSHMAN, J