

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CRIMINAL PETITION No.4163 OF 2022

ORDER:

The petitioner, Accused No.66 in Crime No.126 of 2022 of Taluka Police Station, Amalapuram, filed this Criminal Petition under Sections 437 and 439 of Criminal Procedure Code, seeking regular bail.

2. The case of the prosecution is on 24.05.2022 at about 4:00 P.M., on a call given by JAC of Konaseema Sadhana Committee, huge number of people gathered together for submitting objections pursuant to issuance of Gazette notification with regard to change of name of Konaseema , by violating the proceedings issued under Section 144 of Cr.P.C. and Section 30 of the Police Act. The mob started rally at Kalasam Centre, Amalapuram Town and proceeded to Clock Tower Centre and in the meanwhile various groups of public came from four corners to the clock tower centre and formed into a huge mob.

Thereafter the mob moved to Collectorate office and on the way to Collectorate office when the Police were discharging their duties, the mob pelted stones on the Police and burnt BVC collage bus which was used as transport vehicle for the Police.

Further when Police tried to control the mob at Collectorate office, the mob pelted stones on Police personnel due to which some of the Police sustained injuries and **the mob** damaged the glasses of Collectorate Office and Ambedkar Bhavan.

Thereafter, the mob proceeded to Red Bridge (Erra Vanthana), intercepted two RTC buses, damaged them and set fire to the buses.

The mob further moved towards the house of MLA and pelted stones on the house due to which glasses were damaged. When cousin of MLA tried to pacify the matter and while he was taking video of the situation, the mob poured petrol on him, but he managed to escape. Then the mob entered into the house of MLA, set fire to the motorcycles and entire furniture in the house including house.

Pursuant to the above narrated events a case in Crime No.126 of 2022 of Amalapuram Taluq Police Station, East Godavari District was registered for the offences punishable under Section 143, 144, 147, 148, 151, 152, 155, 452, 436, 353, 332, 427, 188, 307 r/w 3, & 4 of PDPPA, Section 32 of PA 1861 and Section 3(2)(v), 3(2) (va) of the Scheduled Castes and the Scheduled Tribes (PoA) Act.

3. Heard Sri B.V. Subrahmanyeswara Rao, learned counsel for the petitioner and Sri Soora Venkata Sainath, learned Special Assistant Public Prosecutor for the respondent-State.

4. I have perused the entire record and anxious consideration is given to the material therein and to the contentions of the both the counsel.

5. Learned counsel for the petitioner would submit that the petitioner has not participated in the agitation and he was not there when the offence took place. He also would submit that vide remand report dated 30.05.2022, the Deputy Superintendent of Police sought for remand of A46 to A59, but not the petitioner, who was arrayed as A66. However, the petitioner is in remand since 30.05.2022. He also

would submit that based on the extra judicial confession made by the other accused, the petitioner was implicated in the present case. As extra judicial confession is weak evidence, learned counsel for the petitioner prayed for grant of regular bail.

6. Learned Special Assistant Public Prosecutor opposed the Criminal Petition on the ground that the petitioner and others were identified and arrayed in the Crime based on the photographs taken by the Police at the scene of offence. He also filed a **Memo stating that Section 15 A(3) of the SC & the ST (PoA) Act, is complied with.** Hence, prayed for dismissal of the Criminal Petition.

7. The Petitioner along with others was arrested on 30.05.2022 in connection with the above Crime and the petitioner is in judicial custody since more than a month. It is not the case of the prosecution, that the petitioner's present is still required in any custodial interrogation. In fact no such application was filed before the learned Magistrate seeking custody of the petitioner. Since material part of the investigation is completed in this case, retaining the petitioner in remand is against Article 21 of the Constitution of India. Apart from that petitioner's name was not mentioned in the complaint and no specific attribution was made against the petition. Only basing on the extra judicial confession, the petitioner was arrested.

In **Bullu Das Vs. State of Bihar**¹, while dealing with the confessional statements made by the accused persons before a police officer, the Supreme Court held as under:

¹ (1998) 8 SCC 130

"7. The confessional statement, Ex. 5, stated to have been made by the appellant was before the police officer in charge of the Godda Town Police Station where the offence was registered in respect of the murder of Kusum Devi. The FIR was registered at the police station on 8-8-1995 at about 12.30 p.m. On 9-8-1995, it was after the appellant was arrested and brought before Rakesh Kumar that he recorded the confessional statement of the appellant. Surprisingly, no objection was taken by the defence for admitting it in evidence. The trial court also did not consider whether such a confessional statement is admissible in evidence or not. The High Court has also not considered this aspect. The confessional statement was clearly inadmissible as it was made by an accused before a police officer after the investigation had started."

8. Considering the facts of the case and submission of both the counsel, the Criminal Petition is allowed on the following conditions :

- (i) The petitioner shall execute self bond for Rs.50,000/- (Rupees fifty thousand only) with two sureties for a like sum each to the satisfaction of the Principal Junior Civil Judge-cum-Judicial Magistrate of First Class, Amalapuram;
- (ii) The petitioner shall not leave the territory of Amalapuram Taluq Police Station, without intimating the SHO concerned;
- (iii) The petitioner shall not go beyond the Region of Amalapuram Taluq Police Station, without the permission of the concerned SHO/or the learned Trial Court after commencement of trial;
- (iv) The petitioner shall cooperate with the investigation;
- (v) The petitioner shall not influence the witnesses or tamper the evidence;
- (vi) The petitioner shall furnish his mobile phone/landline number and residential address as well as that of their sureties to the I.O./SHO concerned and he shall keep his mobile/landline phone operational at

all times during this period and in the event of any change of the same, will immediately inform the same to the I.O./S.H.O. and,

(vii) The petitioner shall drop a pin location on Google Maps so that the location of the petitioner is available to the Investigation Officer.

The petitioner shall scrupulously comply with the above conditions and any infraction of the same will be viewed seriously and it also entails cancellation of bail.

9. 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 finding in this order be construed as expression of opinion only for the limited purpose of considering the regular bail in the above crime and shall not have any bearing in any other proceedings.

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI

4th July, 2022
GBS