

Duddu Lazar, Prakasam Dt 9 Otrs., vs The State Of Ap., Rep Pp., on 2 September, 2021

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MAIN CASE No.: CrL.A.Nos.728 & 653 of 2016

PROCEEDING SHEET

Sl.

ORDER

No DATE

5. 2.9.2021 CPK, J & BKM, J

I.A.No.1 of 2021
in
CrL.A.No.728 of 2016

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The petitioners, who are A-1, A-2, A-3, A-4 & A-12, filed the present application under Section 389(1) Cr.P.C., seeking bail, pending disposal of the Criminal Appeal.

The petitioners/A-1, A-2, A-3, A-4 & A-12 was tried in Sessions Case No.90 of 2012 on the file of the learned VI Additional District and Sessions Judge, Prakasam at Markapur for the offences punishable under Sections 148, 307 and 302 read with 149 I.P.C.

The learned Sessions Judge convicted the petitioners/A-1, A-2, A-3, A-4 & A-12 for the offences punishable under Sections 148, 307 and 302 read with 149 I.P.C. and accordingly, sentenced them to undergo imprisonment for life and also to pay a fine of Rs.100/- each and in default, to undergo simple imprisonment for a period of one month each for the offence punishable under Section 302 read with 149 I.P.C., to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.100/- each and in default, to undergo simple imprisonment for a period of one month each for the offence punishable under Section 148 I.P.C., and to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.100/- each and in default, to undergo simple imprisonment for a period of one month each for the offence punishable under Section 307 I.P.C.

The only ground on which the present application seeking bail came to be filed is that the petitioners have completed 5 years of actual sentence after conviction by the trial Court and in view of the Judgment in Batchu Rangarao & others v. State of A.P.1, they would be entitled for bail.

The fact that the petitioners have completed 5 years of actual sentence after their conviction is not in dispute. The Division Bench of this court in Batchu Rangarao & others supra, held 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; (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 2016 (3) ALT (Crl.) 505 (DB) (A.P).

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.

Learned Public Prosecutor states that A-11 was already granted bail and the case of the petitioners stands on the same footing; that the case of the petitioners does not fall within any of the exceptions laid down in the said judgment; that there will not be any difficulty in securing their presence in case of conviction and that the conduct of the petitioners in the jail is satisfactory.

It is not a case where the petitioners are alleged to have committed offence relating to rape coupled with murder of minor children, dacoity, murder for gain, kidnapping for ransom etc. Since the case of the petitioners falls within the parameters laid down in Batchu Rangarao & others case and as the judgment of the Division Bench attained finality, the petitioners shall be released on bail on certain terms and conditions.

Accordingly, the Interlocutory Application is allowed and the petitioners/A-1, A-2, A-3, A-4 & A-12 shall be enlarged on bail on their executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) each with two local sureties for a like sum each to the satisfaction of the

learned Additional Judicial Magistrate of First Class, Giddaluru, Prakasam District. However, the petitioners/A-1, A-2, A-3, A-4 & A-12 shall report before the concerned Police Station once in a month i.e., between 10:00 A.M. and 5:00 P.M. till disposal of the appeal and they shall be present before the Court at the time of hearing of this appeal.

It is needless to mention that if the petitioners failed to appear before the Court at the time of hearing the appeal or violated the conditions imposed supra, liberty is given to the learned Public Prosecutor to take steps accordingly.

_____ CPK, J _____ BKM, J Note:-

Furnish C.C. today.

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