

**HIGH COURT OF TELANGANA****Bench: Justice K. Lakshman****Date of Decision: 3rd May 2024**

CRIMINAL PETITION No. 3433 OF 2024

**Dr. Suneetha Narreddy (A.2)       .....Petitioner****Versus****Central Bureau of Investigation (CBI),       ..... Respondent****Legislation and Rules:**

Sections 120-B, 302, 201 of the Indian Penal Code, 1860

Sections 161, 164, 306, 436-A, 439 of the Code of Criminal Procedure, 1973

**Subject:** Bail application for the petitioner accused of conspiracy and murder, with detailed allegations including premeditated murder, disposal of evidence, and other associated offenses.

**Headnotes:**

Bail Application – Sixth Bail Application Filed by Petitioner (A.2) – Grounds for Rejection – High Court Examined Specific Allegations Against Petitioner – Prima Facie Evidence Including Forensic Analysis and Witness Testimonies – No Substantial Change of Circumstances Justifying Bail – Allegations of Threats to Witnesses and Interference with Investigation Upheld by Court – Bail Denied [Paras 4-33].

Evidence Consideration – Role of Petitioner in Crime – Involvement in Conspiracy, Murder, and Evidence Destruction – Statements from Co-Accused and Forensic Evidence Corroborating Allegations – No Parity with Co-Accused Granted Bail Based on Different Circumstances – Evidence Deemed Sufficient to Deny Bail [Paras 6-11, 21-24, 30-32].

Legal Precedents – Application of Supreme Court Rulings – Emphasis on Role and Allegations Against Accused in Bail Decisions – Reference to Cases Emphasizing the Need for Substantial Change in Circumstances for Successive Bail Applications – Period of Incarceration Alone Not Sufficient for Bail if Accused Poses Threat to Witnesses or Trial Integrity [Paras 13-15, 27-29].

Decision – Dismissal of Bail Application – Held – The Sixth Bail Application by the Petitioner is Dismissed – Evidence and Allegations Against Petitioner, Including Role in Murder and Evidence Destruction, Sufficient to Deny Bail – No Significant Change in Circumstances Since Previous Bail Denial – Ongoing Threats to Witnesses Cited as Major Concern [Paras 32-33].

**Referred Cases:**

- State of Maharashtra vs. Captain Buddikota Subba Rao 1989 Suppl. (2) SCC 605
- State of UP through CBI vs. Amaramani Tripathi 2005 (8) SCC 21
- Kalyan Chandrasekhar vs. Rajesh Ranjan (2004) 7 SCC 528
- Virupaksha Gowda and another vs. State of Karnataka and another (2017) 5 SCC 406
- Gudikanti Narsimhulu vs. Public Prosecutor, High Court of Andhra Pradesh AIR 1978 SC 429
- P.Chidambaram vs. CBI (2020) 13 SCC 337
- Jayendra Saraswathi Swamigal vs. State of T.N.7 (2005) 2 SCC 13
- Union of India vs. K.A.Najeeb 2021 AIR SC 712
- Mahendra Lal Das vs. State of Bihar (2002) 1 SCC 149
- Shaheen Welfare Association vs. Union of India (1996) 2 SCC 616
- Mohd. Hussain @ Zulfikar Ali vs. State (Government of NCT of Delhi) (2012) 2 SCC 584
- Surrender Singh @ Shingara Singh (2005) 7 SCC 387
- Motilal Saraf vs. State of J&K (2006) 10 SCC 560
- Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana (Koli) (2021) 6 SCC 230

Representing Advocates:

For the Petitioner: Sri Brahmadandi Ramesh, learned senior counsel, representing Sri T.L.Nayan Kumar, learned counsel

For the Respondent (CBI): Sri Anil Tenwar, learned Special Public Prosecutor – cum – Senior Public Prosecutor

For the Second Respondent: Sri B.Nalin Kumar, learned Senior Counsel representing Ms. Tekuru Swetcha, learned counsel

**COMMON ORDER:**

Heard Sri Brahmadandi Ramesh, learned senior counsel, representing Sri T.L.Nayan Kumar, learned counsel for the petitioner/A.2, Sri Anil Tenwar, learned Special Public Prosecutor – cum – Senior Public Prosecutor for CBI and Sri B.Nalin Kumar, learned Senior Counsel representing Ms.Tekuru Swetcha, learned counsel appearing for 2<sup>nd</sup> respondent.

2. I.A.No.1 of 2024 is filed by the petitioner/Dr.Suneetha Narreddy, to implead herself as 2<sup>nd</sup> respondent in the present Criminal Petition.

3. Having satisfied with the reasons mentioned therein, and that she is the daughter of the deceased, I.A.No.1 of 2024 is allowed. Registry is directed to carry out necessary amendments.

4. The Criminal Petition is filed under Section 439 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') to grant regular bail to the petitioner herein/A.2 in S.C.No.1 of 2023 pending on the file of Principal Special Judge for CBI Cases, Hyderabad. The offences alleged against him are punishable under Sections 120-B read with Sections 302 and 201 of the Indian Penal Code, 1860 (for short, 'the IPC').

5. The allegations leveled against the petitioner herein/A.2 in the charge sheet dated 26.10.2021, first supplementary charge sheet dated 31.01.2022 and also second supplementary charge sheet dated 28.06.2023 are that he was associated with deceased for the last nearly one and half years. He convinced the deceased by assuring him of huge money through a fake story of sale of some diamonds/precious stones in his possession. The

Deceased facilitated the petitioner herein by providing him an Innova car and other facilities.

6. In 161 Cr.P.C. statement of A.4, he confessed the commission of murder of the Deceased and also the involvement of petitioner/A.2 and other accused in the said murder. In furtherance of criminal conspiracy for committing murder of the deceased, A.1 got convinced A.2 to participate in their plan. He was associated with the deceased for some time before the incident. He was an ambitious person and used to introduce himself as the P.A. of the deceased. He had obtained money from several persons using the name of the deceased and he tried to cheat the deceased. A.2 was not happy with the attitude of deceased and his son-in-law Sri N.Rajasekhar Reddy, with regard to story of sale of diamond/precious stones and therefore, he got annoyed with the deceased on being scolded by his mother Mrs. Savitri who was suspecting that deceased had a bad eye on her. A.1 offered share to A.2 in the promised amount of 40 Crores to commit the offence. To execute the plan of murder of the deceased, A.4 (Approver) received an amount of one crore in cash from A.2 as an advance. However, out of the said amount of one crore, A.2 kept Rs.25 lakh with himself with a promise to give the same to A.4 after some time. On enquiry by A.4, A.2 informed that A.5 paid the said money. He took A.4 to the house of A.1 to confirm the said facts.

7. The petitioner/A.2 including A.3 killed the dog 'Jimmy', living at the house of the deceased by running over it in 'Honda Amaze' car used by A.3. The said fact was stated by watchman and housemaid etc. Petitioner/A.2 and others have also conducted a recce to enter the house of the deceased. As per forensic expert opinion on google takeout record from mail ID of the petitioner/A.2 revealed the location of his mobile phone was just outside the house of A.7 and A.8 at 00.08 hours in the intervening night of 13/14.03.2019. A.2 requested A.4 to arrange an axe and accordingly A.4 purchased an axe from Kadiri. During campaign, A.1 made two calls from his phone number to A.2 at 18.22.14 hours on 14.03.2019. A.2 also enquired from A.4 as to what time he would be reaching Pulivendula. A.4 reached Pulivendula at around 20.30 hours from Kadiri and met A.2. A.2 also visited the place of residence of A.7 and A.8 besides visiting other places of relevance in the commission of the offence. The same was also revealed from the Forensic expert opinion of CFSL dated 22.11.2022 based on the data extracted from the google takeout of A.2.

8. A.2 was in frequent contact with A.1, A.3, A.4 over mobile and exchanged messages. In the evening of 14.03.2019, A.3 and A.4 stayed at a

place near house of the deceased and were waiting for his arrival. A.2 brought liquor from one Gorla Bharath Yadav which they consumed during the period in between around 9.00 P.M. on 14.03.2019 to 01.30 A.M. on 15.03.2019. A.3 also joined them. A.2 was found available at the place of drinking as per forensic expert opinion of CFSL, New Delhi. He has sent SMS to A.3. He has also visited the house of A.7 and A.8. A.2, A.3 and A.4 reached rear side road of the deceased on the bike of A.3 at around 1.30 A.M. on 15.03.2019 while A.1 was inside the house of the deceased. They have entered the compound wall of the deceased after scaling the boundary wall. A.1 opened the side door and facilitated the entry of A.2, A.3 and A.4 inside the house.

9. During verbal exchange among them, A.2 abused and kicked the deceased due to which he fell down. A.3 asked A.4 to bring the axe. A.4 handed over the axe to A.3 who hit on the forehead of the deceased by the axe. A.2 hit 7 to 8 times on the chest of the deceased after abusing him. Thereafter, all four of them tortured the deceased and forced him to write a false note mentioning that his driver Prasad has beaten him badly and he should not be spared. All of them lifted the deceased, took him into the bathroom in order to kill him where A.3 again hit on the head of the deceased with axe 7 to 8 times in order to ensure his death. Thus, all of them including petitioner/A.2 have committed murder of the deceased.

10. It is further stated that petitioner/A.2 and A.1, A.3 and A.4 have searched for some documents, tried to break open the almirah. After committing the murder of the deceased, A.2, A.3 and A.4 came out of the house and escaped by scaling the back side compound wall. A.2 had thrown the weapon used in the commission of offence i.e. axe in a Nala near Vasavi Kalyanmantapam, Pulivendula. However, despite making efforts, the same was not traced out.

11. There is also an allegation that the petitioner herein/A.2 has played a role in destruction of evidence. The petitioner/A.2 absconded but he was arrested in Goa. Thus, according to CBI, the petitioner/A.2 has played active role before, during and after commission of offence and also for destruction of scene of offence.

12. This is 6<sup>th</sup> bail application filed by the petitioner. Earlier three bail applications filed by the petitioner/A.2 were dismissed by High Court of Andhra Pradesh at Amaravati, two bail applications were dismissed by this Court vide orders dated 27.02.2023 in Crl.P.No.1259 of 2023 and 15.09.2023 in Crl.P.No.7937 of 2023. There is no dispute that the petitioner can file second bail application or successive bail applications, but he has to establish

that there is a change of circumstances, much less substantial change of circumstances.

13. In **State of Maharashtra Vs. Captain Buddikota Subba Rao**<sup>1</sup> Apex Court held that once application for bail was dismissed, there is no question of granting a similar relief which will virtually overruling the earlier decision without there being a change in a fact situation. Change means a substantial change which has direct impact on the earlier decision and not merely cosmetic changes which are of little or no consequence.

14. In **State of UP through CBI Vs. Amaramani Tripathi**<sup>2</sup>, Apex Court reiterated the principle laid down by it in **Kalyan Chandrasekhar Vs. Rajesh Ranjan**<sup>3</sup> and paragraph No.19 of the said Judgment is extracted below which is as follows:-

This Court also in specific terms held that:

"the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."

15. In **Virupaksha Gowda and another Vs. State of Karnataka and another**<sup>4</sup> Apex Court held that filing of charge sheet does not in any

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<sup>1</sup> 1989 Suppl. (2) SCC 605

<sup>2</sup> 2005 (8) SCC 21

<sup>3</sup> (2004) 7 SCC 528

<sup>4</sup> (2017) 5 SCC 406

manner lesser the allegations made by the prosecution. On the contrary, filing of charge sheet establishes that after due investigation the investigating agency, having found material, has placed the charge sheet for the trial of the accused persons. Therefore, filing of charge sheet is not a ground for granting bail to an accused.

16. It is apt to note that in the aforesaid charge sheets, CBI specifically stated that the investigation conducted by Investigating Officer, obtaining of forensic analysis from CFSL, New Delhi, examination of witnesses, re-examination of witnesses, investigation with regard to source of money, trail of Rs.40 Crores and as to the larger conspiracy behind the commission of murder of Deceased and destruction of evidence.

17. In the light of the aforesaid principle, the petitioner herein/A.2 has to establish the change of circumstances from 15.09.2023 till this day.

18. Sri Brahmadandi Ramesh, learned Senior counsel seeks bail to the petitioner herein/A.2 on the grounds that the petitioner herein/A.2 is in jail from 03.08.2021. He was taken to custody by CBI from 06.08.2021 to 16.08.2021. Even before that, about 50 days, he was in the custody of the CBI. Notice under Section 160 of Cr.P.C. was issued to him on 05.03.2021. He has assisted the CBI more particularly the Investigating Officer. He was taken to custody thrice. Even then, the Investigating Officer in the subject crime has issued a paper publication. Except the google take out, there is no other evidence against the petitioner herein. With regard to the google take out, the statement of P.W.6 is contradictory. This Court has granted anticipatory bail to A.8 vide order dated 31.05.2023 in CrI.P.No.3798 of 2023. This Court has also granted bail to A.5 vide order dated 11.03.2024 in CrI.P.No.11606 of 2023. The alleged axe was not recovered. In the counter filed by CBI in W.P.No.14257 of 2021, the CBI admitted that the petitioner herein/A.2 has cooperated with the Investigating Officer. There are 329 witnesses in the present case and it is at the stage of 207 Cr.P.C. Except, the google take out and statement of A.4, there is no other evidence against the petitioner herein. Keeping the petitioner in jail for a long period from 03.08.2021 is nothing but pre-trial conviction. The only apprehension of the CBI is that the petitioner herein/A.2 may threaten the witnesses and interfere with the investigation. He further contends that the petitioner is entitled for bail in parity with A.5. He has also placed reliance on the following judgments;-

1. **Gudikanti Narsimhulu vs. Public Prosecutor, High Court of Andhra Pradesh**<sup>5</sup>
2. **P.Chidambaram vs. CBI**<sup>6</sup>
3. **Jayendra Saraswathi Swamigal vs. State of T.N.**<sup>7</sup>
4. **<sup>7</sup> Union of India vs. K.A.Najeeb**<sup>8</sup>
5. **Mahendra Lal Das vs. State of Bihar**<sup>9</sup>
6. **Shaheen Welfare Association vs. Union of India**<sup>10</sup>
7. **Mohd. Hussain @ Zulfikar Ali vs. State (Government of NCT of Delhi)**<sup>11</sup>
8. **Surrender Singh @ Shingara Singh**<sup>12</sup>
9. **Motilal Saraf vs. State of J&K**<sup>13</sup>, to contend that the petitioners case does not fall into triple test i.e. 1) fleeing 2) tampering with the evidence and 3) influencing the witnesses. With the said submissions, he sought bail to the petitioner.
19. Whereas, learned Special Public Prosecutor for CBI and Sri B.Nalin Kumar, learned senior counsel appearing for 2<sup>nd</sup> respondent opposed the bail application on the following grounds:-
  - i. There are specific and serious allegations against the petitioner herein.
  - ii. This is 6<sup>th</sup> bail application.
  - iii. There is no change of circumstances much less substantial change of circumstances from dismissal of the earlier bail application from 15.09.2023 till today.
  - iv. Apart from the google take out, there is other evidence i.e. evidence of Ranganna.
  - v. He cannot claim parity with A.5.

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<sup>5</sup> AIR 1978 SC 429

<sup>6</sup> (2020) 13 SCC 337

<sup>7</sup> (2005) 2 SCC 13

<sup>8</sup> 2021 AIR SC 712

<sup>9</sup> (2002) 1 SCC 149

<sup>10</sup> (1996) 2 SCC 616

<sup>11</sup> (2012) 2 SCC 584

<sup>12</sup> (2005) 7 SCC 387

<sup>13</sup> (2006) 10 SCC 560



- vi. The anticipatory bail granted to A.8 and regular bail granted to A.5 were under challenge by 2<sup>nd</sup> respondent before the Apex Court and the same are pending.
- vii. This Court considered several aspects and dismissed the earlier bail applications.
- viii. There is direct evidence against the petitioner herein. Therefore, there is every possibility of the petitioner threatening the witnesses and interfering with the fair trial in which event, the trial Court may not be in a position to conduct fair trial in the subject Sessions Case.

With the said submissions, both of them sought to dismiss the present bail application.

- 20. It is not in dispute that this is 6<sup>th</sup> bail application filed by the petitioner herein. He has to make out change of circumstances much less substantial change of circumstances. The circumstances relied upon by the petitioner herein are that this Court granted anticipatory bail to A.8 and regular bail to A.5. Vide order dated 31.05.2023 in CrI.P.No.3798 of 2023, this Court granted anticipatory bail to A.8 i.e. much prior to dismissal of 5<sup>th</sup> bail application filed by the petitioner herein. Therefore, it is not a ground to the petitioner to seek bail on the ground of parity. However, the said order is under challenge by 2<sup>nd</sup> respondent before Hon'ble Apex Court and the said SLP is pending. Vide order dated 16.03.2024 in CrI.P.No.11606 of 2023, this Court granted regular bail to A.5 on the ground that there is no direct evidence against him, his name was shown as A.5 in 2<sup>nd</sup> supplementary charge sheet. and there is only circumstantial evidence. This Court also considered health ground of A.5. Therefore, the petitioner herein cannot seek parity with A.5.
- 21. The name of the petitioner is mentioned in the charge sheet filed by CBI dated 26.10.2021. The role played by the petitioner is specifically mentioned in the said charge sheet. According to the CBI, the petitioner herein has played specific role before, during and post commission of offence, commission of offence and post-commission of offence. The Investigating Officer has obtained expert opinion of CFSL, New Delhi and recovered call data. He has also recorded the statement of witnesses under Section 164 of Cr.P.C. The Investigating Officer has also specifically stated about motive for commission of offence in the charge sheet. P.W.14-Ranganna deposed about the role played by the petitioner/A.2.
- 22. The contention of the learned counsel for the petitioner that except google take out and the statement of A.4, there is no other evidence against the

- petitioner herein, cannot be considered. *Prima facie*, there is direct evidence against the petitioner herein. Therefore, he cannot claim parity with A.5.
23. In the charge sheet, it is also stated that the petitioner herein was associate of the deceased. There was dispute between the petitioner and deceased with regard to sale of some diamonds and precious stones in his possession. The petitioner bore grudge on the deceased suspecting that the petitioner had an eye on his mother. He has received money. His presence in the house of A.7 and A.8 and deceased was specifically mentioned in the charge sheet. He along with other accused killed the dog living in the house of the deceased. The petitioner/A.2 hit the deceased on his chest 7 to 8 times. He has collected axe from A.4.
  24. Perusal of the charge sheet also would reveal that there are specific allegations and overt acts against the petitioner herein. *Prima facie*, he has actively participated in commission of offence and tried to screen the evidence. Thus, according to the prosecution, the petitioner herein has played active role before, during and post-commission of offence. The reliability of statement of A.4 recorded under Sections 161, 164, 306 of IPC and other statements cannot be considered in the present petition filed by the petitioner seeking regular bail. It is for the trial Court to consider the same. Considering the said aspects including the aspect that most of the witnesses are from the State of Andhra Pradesh, A.8 is sitting Member of Kadapa Parliamentary Constituency. A.7 is his father and close relative of the present Chief Minister of Andhra Pradesh, transferred the present Sessions Case from CBI Court, Kadapa to CBI Court, Hyderabad.
  25. The reliability of the witnesses cannot be considered while deciding bail application. It is for the trial Court to decide the same. Two witnesses died in suspicious circumstances.
  26. P.W.9 Sri J.Shankaraiah, the then Circle Inspector of Police also stated about the role played by the petitioner and other accused in commission of offence. His statement was recorded under Section 161 of Cr.P.C. He also refused to give statement under Section 164 of Cr.P.C. He was placed under suspension and the same was revoked later. He has addressed a letter to Superintendent of Police, stating that the CBI pressurized him to turn as approver. Though he agreed to give statement under Section 164 of Cr.P.C. and subsequently, refused to give the same. On consideration of all the said aspects only, this Court dismissed earlier bail application filed by the petitioner vide CrI.P.No.7937 of 2023 order dated 15.09.2023 to today.

27. In **Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana (Koli)**<sup>14</sup>, The Apex Court held that while granting bail the Court must focus upon role of the accused. Merely observing that another accused who was granted bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of bail on the basis of parity has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident and to the victims is of utmost importance.
28. As held by the Apex Court in **Amaramani Tripathi** (supra), the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.
29. It is relevant to note that Section 436-A of Cr.P.C. deals with maximum period for which an Under Trial Prisoner can be detained and it says where a person has, during the period of investigation, inquiry or trial under this Code an offence under law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period of extending up to one-half of the maximum period of punishment specified for that offence under that law, he shall be released by the Court on his personal bond with or without security.
30. As discussed supra, all the witnesses in the present case are from the State of Andhra Pradesh. As rightly contended by learned Special Public Prosecutor for CBI that A.4 has already filed an application seeking cancellation of anticipatory bail granted to A.8 on the ground that A.8, A.5 and others sent Dr.Chaitanya Reddy, son of A.5 to Central Jail, Kadapa where A.4 was there at that particular point of time, offered Rs.2 Crores and threatened him. They have also tried to kill father of A.4.
31. At the cost of repetition, as discussed supra, 2<sup>nd</sup> respondent has already filed SLPs challenging the anticipatory bail granted to A.8 and regular bail granted

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<sup>14</sup> (2021) 6 SCC 230

to A.5 and they are pending. Therefore, the petitioner herein cannot seek parity with A.5.

32. In the light of the aforesaid discussion, viewed from any angle, the petitioner herein/A.2 is not entitled for bail and this application is liable to be dismissed.

33. In view of the above discussion, I.A.No.1 of 2024 is allowed. However, this Criminal Petition is dismissed.

Consequently, miscellaneous petitions, if any, pending in the criminal petition, shall stand closed.

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