

THE HON'BLE SRI JUSTICE K.LAKSHMAN

CRIMINAL PETITION Nos.7545 AND 7565 OF 2023

COMMON ORDER:

These Criminal Petitions are filed under Sections – 437 and 439 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') to grant regular bail to the petitioners herein, A.6 and A.7 in S.C.No.1 of 2023 pending on the file of Principal Special Judge for CBI Cases, Hyderabad. The offences alleged against them are punishable under sections 120-B read with Sections 302 and 201 of the Indian Penal Code, 1860 (for short, 'the IPC').

2. Heard Sri T.Niranjan Reddy, learned Senior Counsel, representing Sri T.Nagarjuna Reddy, and Sri Ch.Siddardha Sarma, learned counsel for the petitioners, Sri Anil Tenwar, learned Spl.Public Prosecutor for CBI and Sri B.Nalin Kunar, learned Senior counsel representing Ms.Tekuru Swetcha, learned counsel appearing for 2nd respondent.

3. S.C.No.1 of 2023 is commonly came to be known as Y.S.Vivekananda Reddy murder case. It involves murder of said Y.S.Vivekananda Reddy (hereinafter called as 'Deceased'), a former Member of Legislative Assembly of erstwhile combined State of Andhra

Pradesh and also a former Member of Parliament. He is a brother of Former Chief Minister of erstwhile combined State of Andhra Pradesh i.e. late Dr.Y.S.Raja Sekhar Reddy, and he is paternal uncle of present Chief Minister of Andhra Pradesh i.e. Mr.Y.S.Jagan Mohan Reddy.

4. On 15.03.2019 in the morning hours, the Deceased was lying in a pool of blood at his house in Pulivendula, Kadapa Y.S.R.District. On the same day, the First Information Report bearing No.84 of 2019 was registered by Pulivendula Police Station under Section 174 of Cr.P.C. on the report of Sri M.V.Krishna Reddy, Personal Assistant to the Deceased. After the inquest, the provision of law was altered to Section 302 of IPC. The State Government constituted a Special Investigation Team (SIT) to investigate the alleged murder of the Deceased.

5. Dissatisfied with the investigation conducted by the SIT, wife of the Deceased approached the High Court of Andhra Pradesh at Amaravati by way of filing a writ petition vide W.P.No.3944 of 2019 seeking entrustment of investigation to CBI from SIT. Vide order dated 11.03.2020, the High Court of Andhra Pradesh, considering the seriousness of the offences and the allegations made therein, allowed the said writ petition and entrusted the investigation to CBI. High Court also directed the CBI to conduct investigation into the allegations of **larger**

conspiracy and destruction of evidence and also directed the CBI, to complete investigation as expeditiously as possible and file final report.

6. In compliance with the said order, the CBI registered a case bearing RC-04(S)/2020/CBI/SC-III/New Delhi on 09.07.2020 and launched investigation into the death of the Deceased. After conducting investigation, CBI filed charge sheet dated 26.10.2021 against A.1 to A.4 i.e. Thumallapalli Gangi Reddy (A.1), Yadati Sunil Yadav (A.2), Gajjala Uma Sankar Reddy (A.3) and Shaik Dasthagiri (A.4).

7. In the said charge sheet dated 26.10.2021, it is stated by the CBI that the case requires further investigation. The accused therein were charged under Section 302 read with 120-B IPC. During the course of further investigation, A.4 was examined under Section 161 of Cr.P.C. wherein he confessed the commission of murder of the Deceased and stated the involvement of A.5 to A.8 including the petitioners herein in commission of the said murder. A.4 later turned as an Approver and was granted pardon under Section 306 of Cr.P.C.

8. On 31.01.2022 a supplementary charge sheet was filed arraigning Sri D.Siva Shankar Reddy, as A.5 for the offences punishable under Sections 201 read with Section 301 of IPC. Additional charges

under Sections 201, 506 and 120-B read with 302 IPC were framed against Sri Thumallapalli Gangi Reddy (A.1).

9. It is apt to note that A.6 filed a complaint on 09.02.2022 under Section 200 read with 156(3) of Cr.P.C. before the learned Special Mobile Judicial Magistrate of First Class, Kadapa against the then Investigating Officer in the said crime i.e. Mr. Ram Singh. In the said complaint, A.6 alleged that he was forced and coerced by the said Investigating Officer to implicate certain people including A.8 and the petitioners herein in the murder of the Deceased. The learned Magistrate referred the said complaint to the Police under Section 156(3) of the Cr.P.C. vide order dated 16.02.2022 and police registered a case in Cr.No.29 of 2022 against the said Investigating Officer for the offences punishable under Sections 195-A, 323 and 506 read with 34 of IPC. He has filed a petition under Section 482 of Cr.P.C. Vide CrI.P.No.1258 of 2022 before the High Court of Andhra Pradesh at Amaravati and the said Court granted stay of all further proceedings arising out of the said FIR vide order dated 22.03.2022.

10. In the rejoinder to the counter filed by A.6, the CBI stated that A.6, the petitioners along with others, involved in the murder of the Deceased.

11. 2nd respondent herein and her mother filed writ petition vide W.P.(CrI) No.169 of 2022 before the Hon'ble Apex Court seeking transfer of the trial arising out of the said crime pending before the CBI Special Court, Kadapa, Andhra Pradesh to CBI Special Court, Hyderabad or CBI Special Court, New Delhi and also to direct the CBI to complete investigation at the earliest. The Apex Court noted the allegations of **larger conspiracy in the death of the Deceased, destruction of evidence and involvement of the petitioners herein** and vide order dated 29.11.2022, transferred the trial arising out of the aforesaid crime and for further investigation to the CBI Special Court, Hyderabad. On completion of investigation, the Investigating Officer, filed second supplementary charge sheet on 28.06.2023.

12. Learned Principle Special Judge, for CBI Cases, Hyderabad vide order dated 13.07.2023 took cognizance of the same against the petitioners herein for the offences punishable under Sections 120-B read with 302 and Section 201 of IPC in S.C.No.1 of 2023.

13. In the aforesaid charge sheet, it is stated by CBI that the investigation conducted by them revealed that the petitioners along with A.8, A.5 and A.1 and others are found involved behind the **larger conspiracy of murder of Deceased and destruction of evidence** at the

scene of crime. The petitioners and other accused either by themselves or by their associates all are active in influencing the witnesses with sole motive to delay with the investigation.

14. The investigation further revealed that in the early morning of 15.03.2019 before the information of death of the Deceased was broke out, A.6, A.5 and others were also present at the house of A.7 and A.8. They were waiting for the formal intimation from any third person so that they could immediately proceed to the scene of crime in order to destroy the evidence as conveyed by A.1 to three other co-assailants i.e. A.2, A.3 and A.4 at 5.20A.M. at his residence, where A.1 had assured to all the three co-accused/assailants that he had spoken to A.8 and A.5 and they will take care of whole affairs besides he is also proceeding to the house of the Deceased.

15. CBI further contended that the investigation revealed that Sri N.Siva Prakash Reddy/A.5 informed to A.8 through Mobile phone at 6.26.15 A.M. that the Deceased died. Thereafter, A.8, A.5 and A.6 and some other close associates/assisting personnel immediately proceeded after receiving information and reached in two or three vehicles at the house of the Deceased. The Forensic analysis of the Google takeout of A.6 carried out by CFSL, New Delhi, would reveal that A.6 was already

present at the house of A.7 and A.8 at around 6.A.M. in the morning of 15.03.2019. It is also found that location of mobile phone of A.6 was inside the house of A.8 at 6.25.25 A.M. and just two minutes thereafter at 6.27.28 A.M. location of his mobile phone was found outside the house of the Deceased. Thereafter, he was found inside the house of the Deceased from 6.29 A.M. to 6.31 A.M. A.8 had received call from N.Siva Prakash Reddy/A.5, at 6.26.15 A.M and within a minute, they reached at the house of the Deceased. The said fact substantiates Section 306 Cr.P.C. statement of Approver Mr. Shaik Dasthagiri (A.4) that A.1 had already spoken with A.8 and A.5 prior to 5.20 A.M. on 15.03.2019 who had assured A.1 that they would take care of everything and then he was also proceeding there (at the scene of crime) and he would manage it. Subsequent act of destruction of evidence at the scene of crime was done by A.7 and other co-accused was in furtherance of the conspiracy.

16. The investigation further revealed that A.5 and A.8 along with A.6 and other persons after entering into the house of the Deceased, it was seen blood present in the bedroom and dead body lying in pool of blood in the bathroom with visible gruesome injuries on the head. Thereafter, A.8 using mobile phone number bearing (9000006243) of his Personal Assistant Mr. Raghava Reddy, made a call to Sri J.Shankaraiah

(9121100544), the then Circle Inspector, Pulivendula and informed him about the death of the Deceased and that the Deceased died due to heart attack, heavy blood vomiting which is present at bed room and bath room. A.8 further informed to the then C.I. to send 3 to 4 constables for bandobusth. Thus, it is evident that A.8 had called police only after seeing the dead body of the Deceased and discussing the matter with A.5 in order to conceal the design of murder. It was conveyed that the Deceased died due to heart attack although it was a case of murder. It shows that the fake story of heart attack and blood vomiting was propagated / flouted in a pre-meditated manner to give it colour of natural death as a part of conspiracy. A.7 also joined the co-accused and actively facilitated destruction of evidence at the scene of crime.

17. While the destruction of evidence at scene of crime was going on, several persons visited the scene of crime and some of them were noticed that bed room was bolted from inside by A.6 and he was allowing only selected persons to enter inside the bed room. The persons who visited the scene of crime and on seeing the dead body clearly observed that it was a case of murder and not heart attack.

18. Investigation further revealed that after cleaning of the blood in the bed room and bath room, the dead body was shifted to the bed room.

In the meantime, A.7 and A.8 etc., were present in the hall discussed about arrangement of bandages and cotton and thereafter, bandages and cotton were arranged and got applied through Gajjala Jai Prakash Reddy, a Compounder of E.C.Gangi Reddy Hospital, to hide the grievous injuries as per instructions of A.6, A.5 and A.1. The flouting of the heart attack theory followed by cleaning of blood from bedroom and bathroom, application of cotton and bandages on the injuries and arrangement of body freezer box was with the intention to conceal the design of murder and to dress up the dead body with the floral decoration for public display.

19. In furtherance of the conspiracy, A.5 had also threatened the local Police Inspector Mr. J. Shankaraiah to keep mum and manage it as a case of heart attack. Further A.5 and A.8 had also told J.Shankaraiah not to register a case and there was no need to carry out *post-mortem*. The petitioners and some other accused also convinced the visiting persons that the Deceased died due to blood vomiting and also heart attack. Several witnesses spoke about the said fact. Thus, the petitioners, A.8 and other accused have made effort to influence the investigation as well as witnesses of the case. The events unfolded during the course of investigation indicate that several witnesses in the case are being

influenced at the behest of the petitioners, some of the accused persons and their close associates. Three witnesses namely late Sh.Gangadhar Reddy, an associate of the A.5, J.Shankaraiah, the then Circle Inspector of Police, Pulivendula and M.V.Krishna Reddy, the Personal Assistant of Deceased and complainant of the FIR are already apparently have come under the influence of the accused persons and other conspirators. .

20. CBI further contended that the investigation further revealed that the evidence on record in the form of oral documentary science and medical clearly established that A.1, A.2, A.3 and A.4 executed murder of the Deceased in furtherance of their conspiracy hatched by A.5 to A.8 and the destruction of evidence from the scene of crime which was done by A.7 along with some other co-accused to cover up the murder and projected it further that it is due to heart attack/blood vomiting. Thus, it is evident that the destruction of evidence from the scene of crime is due to integral part of conspiracy of murder of the Deceased.

21. Investigation further revealed that a plan for the execution of the murder of the Deceased was chalked out at the behest of A.7, A.8 and A.5 at the residence of A.1 at Pulivendula, Kadapa District, where other three accused executing A.2, A.3 and A.4 also joined. The said fact was

also disclosed by A.4 Approver, in his statement recorded under Section 164 as well as under Section 306 of Cr.P.C.

22. Investigation further revealed that the petitioners herein and A.8 are highly influential persons and there are serious allegations against them. There is every possibility of their interference with the trial by influencing the witnesses and threatening them. With the said submissions, respondents sought to dismiss the present Criminal Petitions for conducting of fair trial.

23. Sri T.Niranjan Reddy, learned Senior Counsel, representing Sri T.Nagarjuna Reddy, and Sri Ch.Siddardha Sarma, learned counsel for the petitioners, would submit that in the charge sheet dated 26.10.2021, there is no allegation against the petitioners herein. A.4 declared as Approver. In his statement dated 25.08.2021 and 31.08.2021 stated about alleged role played by the petitioners herein.

24. Referring to paragraph No.5 of W.P.No.66453 of 2023, he would submit that due to political rivalry, opponents are targeting A.8 and his father A.7. He requested this Court to take judicial note of the said paragraph No.15 and therefore, it is extracted below:-

15. Further, Dr. Y.S. Sunitha and Narreddy Rajasekhar Reddy (son-in-law of the Deceased) have been in close contact with a current TDP sitting MLC by name Sri M. Ravindranath Reddy @ B.Tech Ravi and through him to Sri Chandrababu Naidu. It is pertinent to note that

before this relationship developed, Dr. Sunitha had never found any fault with me for about one year after the crime and under the influence of this relation with Sri M. Ravindranath Reddy (and by extension, Sri Chandrababu Naidu) she is now making wild allegations against me. It is submitted that after the death of her father, Dr. Y.S. Sunitha had organized a press meet where she informed the public at large that her father was working tirelessly till his last day for my successful election as a Member of Parliament. This press meet was widely broadcasted in many news channels. In fact she had also mentioned the fact that Sri Vivekananda Reddy had campaigned door to door in Jammalamadugu on 14-03-2019 (the day prior to his murder) canvassing support from the public for my successful election as MP, Kadapa constituency.

25. There are contradictions in the statement of the Approver recorded under Section 161, 164 and 306 of Cr.P.C. CBI facilitated A.4 to get anticipatory bail. The Court below without considering the seriousness of the case and also the role played by A.4, granted pardon to him under Section 306 of Cr.P.C. and also anticipatory bail. The alleged money was recovered in September, 2020. A.7 is aged about 72 years and he is suffering with several old age ailments and in proof of the same, he has filed medical reports. He was arrested on 16.04.2023 and entire investigation is completed and therefore, he is entitled for bail. A.6 is only an employee of the ECIL and he came to Pulivendula for two days. Absolutely there is nothing against A.6 and the role played by him in commission of offence is also not specifically mentioned. Just because he is close associate of A.8, the CBI included his name in the present crime and harassing him. The allegations leveled against A.5 are different to

the allegations leveled against A.6 and A.7. Therefore, A.6 and A.7 case cannot be equated with the A.5's case and the allegations mentioned therein. A.6 was arrested on 14.04.2023. Respondents - CBI being premier Investigating Agency cannot rely upon Google takeout which has no relevancy at all. He has also relied on some literature with regard to the same. Without considering the said aspects, Court below dismissed the bail petitions filed by both the petitioners. With the said submissions, he sought bail to both the petitioners herein.

26. Whereas, learned Special Public Prosecutor for CBI and Sri B.Nalin Kumar, learned Senior Counsel, representing Ms. Tekuru Swetcha, learned counsel for 2nd respondent would contend as follows:-

- i. The allegations leveled against both the petitioners are serious in nature and the offences committed by them are grave in nature.
- ii. They are influential persons.
- iii. They are very close to the present Chief Minister of Andhra Pradesh.
- iv. There is every possibility of the petitioners interfering with the trial in which event, conducting of fair trial in S.C.No.1 of 2023 is not possible.

- v. While granting bail, this Court cannot consider the reliability of the statement of the witnesses including the statement of A.4 Shaik Dasthagiri, an Approver under Section 161, 164 and 306 of Cr.P.C. both the A.6 and A.7 are standing on the same footing like A.5.
- vi. The bail applications filed by A.5 were dismissed by the trial Court, High Court and Apex Court. Therefore, the petitioners herein are not entitled for bail.
- vii. High Court of A.P. vide order dated 11.03.2020 in W.P.No.3944 of 2019 entrusted the investigation to CBI for the purpose of conducting investigation with regard to **larger conspiracy and destruction of evidence.**
- viii. There are specific allegations against both the petitioners herein with regard to the same. Both of them in connivance with the other accused conspired in the murder of the Deceased and they tried to destruct the evidence.
- ix. The Investigating Officer recorded the statements of the witnesses obtained analyst report from CFSL and also call data etc. with regard to Google take out, which is also one of the methods of collecting evidence and its reliability cannot be considered at the

time of considering the bail applications and it is for the trial Court to consider the same.

- x. Vide order dated 29.11.2022 in W.P.(Crl) No.169 of 2022, the Hon'ble Apex Court transferred trial of S.C.No.1 of 2023 from CBI Special Court, Kadapa to CBI Special Court, Hyderabad on considering the nature of allegations made against all the accused including the petitioners and also their positions.
- xi. With the said submissions, they sought to dismiss the present applications.

CONSIDERATION OF THE COURT:-

27. Admittedly, the Investigating Officer completed investigation and filed charge sheet on 26.10.2021, first supplementary charge sheet on 31.01.2022 and second supplementary charge sheet on 30.06.2023. 2nd supplementary charge sheet was taken on file on 13.07.2023 against both the petitioners herein/A.6 and A.7 for the offences punishable under Section 120-B read with Section 302 and 201 of IPC.

28. Perusal of the aforesaid charge sheets would reveal that, *prima facie*, there are serious allegations against both the petitioners herein. The said allegations are narrated supra. A.6 was arrested on 14.04.2023 whereas, A.7 was arrested on 16.04.2023.

29. As discussed supra, these two criminal petitions are bail petitions filed by A.6 and A.7.

30. It is relevant to note that this Court referred the principles and factors to be considered while granting or rejecting bail application as emphasized by the Apex Court in **Mahipal v. Rajesh Kumar @ Polia**¹, in **Kancherla Sri Haribabu @ K.Babji Vs. State of Telangana**². The relevant paragraphs are extracted below:-

19. In **Mahipal v. Rajesh Kumar @ Polia**³, a Two-Judge Bench of the Hon'ble Apex Court, Dr. D.Y. Chandrachud J., speaking for the Court, discussed with regard to the power of granting bail under Section 439 of Cr.P.C. and held that the power to grant bail under Section 439 of Cr.P.C. is of a wide amplitude. Though the grant of bail involves the exercise of discretionary power of the Court, it has to be exercised in a judicious manner and not as a matter of course. In the said case, the guiding factors for exercise of power to grant bail as held in **Ram Govind Upadhyay v. Sudarshan Singh**⁴, were referred, which are as follows:

“3. Grant of bail though being a discretionary order - but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case...The nature of the offence is one of the basic considerations for the grant of bail - more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.

¹. (2020) 2 SCC 118

². (2021) 1 ALT CrI.73

³. (2020) 2 SCC 118

⁴. (2002) 3 SCC 598

4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the Accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be (2002) 3 SCC 598 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.”

20. It was further held in the very same judgment that the determination of whether a case is fit for the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a prima facie view of the involvement of the Accused are important. No straight jacket formula exists for courts to assess an application for the grant or rejection of bail. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the Accused. That is a matter for trial. However, the Court is required to examine whether there is a prima facie or reasonable ground to believe that the Accused had committed the offence and on a balance of the considerations involved, the continued custody of the Accused sub-serves the purpose of the criminal justice system. Where bail has been granted by a lower court, an appellate court must be slow to interfere and

ought to be guided by the principles set out for the exercise of the power to set aside bail.

21. The Hon'ble Apex Court referred to the factors to be borne in mind while considering an application for bail in *Prasanta Kumar Sarkar v Ashis Chatterjee*⁵, and the said factors are as follows:

- “(i) whether there is any prima facie or reasonable ground to believe that the Accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the Accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the Accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail.

...

12. It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal...”

22. The Hon'ble Apex Court has also referred to the principles laid down by it in *Kalyan Chandra Sarkar v. Rajesh Ranjan*⁶, wherein it was held that the Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail, a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the Accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind.

23. By referring to the above said judgments, the Hon'ble Apex Court held that it is a fundamental premise of open justice, to which our judicial system is

⁵. (2010) 14 SCC 496

⁶. (2004) 7 SCC 528

committed, that factors which have weighed in the mind of the judge in the rejection or the grant of bail are recorded in the order passed. Open justice is premised on the notion that justice should not only be done, but should manifestly and undoubtedly be seen to be done. The duty of the Judges to give reasoned decisions lies at the heart of this commitment. Questions of the grant of bail concern both liberty of individuals undergoing criminal prosecution as well as the interest of criminal justice system in ensuring that those who commit crimes are not afforded the opportunity to obstruct justice. Judges are duty bound to explain the basis on which they have arrived at a conclusion.

31. In **Deepak Yadav Vs. State of UP**⁷ a three Judges Bench of Apex Court summarized the principles for grant or denial of bail.

Paragraph Nos.22 to 30 are relevant and the same are extracted below:-

22. As reiterated by the two-Judge Bench of this Court in *Prasanta Kumar Sarkar Vs. Ashish Chatterjee And Another*, it is well-settled that the factors to be borne in mind while considering an application for bail are:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail.

23. The decision in *Prasanta* (supra) (2010) 14 SCC 496) has been consistently followed by this Court in *Ash Mohammad Vs. Shiv Raj Singh alias Lalla Babu*(2012) 9 SCC 446), *Ranjit Singh Vs. State of Madhya Pradesh* (2013) 16 SCC 797), *Neeru Yadav Vs. State of Uttar Pradesh* (2014) 16 SCC 797), *Virupakshappa Gouda Vs. State of Karnataka*(2017) 5 SCC 406), *State of Orissa Vs. Mahimananda Mishra* (2018) 10 SCC 516)

⁷ (2022) 8 SCC 559

24. In a recent pronouncement of this Court in the case of ‘Y’ Vs. State of Rajasthan(2022) 9 SCC 269), authored by one of us (Hon’ble N.V. Ramana, CJI), it has been observed as under :-

“24. The impugned order passed by the High Court is cryptic, and does not suggest any application of mind. There is a recent trend of passing such orders granting or refusing to grant bail, where the Courts make a general observation that “the facts and the circumstances” have been considered. No specific reasons are indicated which precipitated the passing of the order by the Court.

25. Such a situation continues despite various judgments of this Court wherein this Court has disapproved of such a practice. In the case of Mahipal (Supra), this Court observed as follows:-

25. Merely recording “having perused the record” and “on the facts and circumstances of the case” does not subserve the purpose of a reasoned judicial order. It is a fundamental premise of open justice, to which our judicial system is committed, that factors which have weighed in the mind of the Judge in the rejection or the grant of bail are recorded in the order passed. Open justice is premised on the notion that justice should not only be done, but should manifestly and undoubtedly be seen to be done. The duty of Judges to give reasoned decisions lies at the heart of this commitment. Questions of the grant of bail concern both liberty of individuals undergoing criminal prosecution as well as the interests of the criminal justice system in ensuring that those who commit crimes are not afforded the opportunity to obstruct justice. Judges are duty-bound to explain the basis on which they have arrived at a conclusion.” (emphasis supplied)

25. For grant or denial of bail, the “nature of crime” has a huge relevancy. The key consideration which govern the grant of bail were elucidated in the judgment of this Court in Ram Govind Upadhyay Vs. Sudarshan Singh¹⁴, wherein it has been observed as under(SCCp.602,para4): -

“4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) 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.”

26. Similarly, the parameters to be taken into consideration for grant of bail by the courts has been described in *Kalyan Chandra Sarkar Vs. Rajesh Ranjan alias Pappu Yadav* ((2004) 7 SCC 528 as under : -

“11. The law in regard to grant or refusal of bail is very well-settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

(a) the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) prima facie satisfaction of the court in support of the charge.”

B. Recording of reasons for grant of bail by the High Court of the Sessions Court

27. The importance of assigning reasoning for grant or denial of bail can never be undermined. There is prima facie need to indicate reasons particularly in cases of grant or denial of bail where the accused is charged with a serious offence. The sound reasoning in a particular case is a reassurance that discretion has been exercised by the decision maker after considering all the relevant grounds and by disregarding extraneous considerations.

28. A two-Judge Bench of this Court in *Ramesh Bhavan Rathod* (Supra) held that the duty to record reasons is a significant safeguard which ensures that the discretion which is entrusted to the court, is exercised in a judicious manner. The operative portion of the judgment reads as under : -

“38. We disapprove of the observations of the High Court in a succession of orders in the present case recording that the Counsel for the parties “do not press for a further reasoned order”. The grant of bail is a matter which implicates the liberty of the accused, the interest of the State and the victims of crime in the proper administration of criminal justice. It is a well-settled principle that in determining as to whether bail should be granted, the High Court, or for that matter, the Sessions Court deciding an application under [Section 439](#) of Cr.P.C would not launch upon a detailed evaluation of the facts on merits since a criminal trial is still to take place. These observations while adjudicating upon bail would also not be binding on the outcome of the trial. But the Court granting bail cannot obviate its duty to apply a judicial mind and to record reasons, brief as they may be, for the purpose of deciding whether or not to grant bail. The consent of parties cannot obviate the duty of the High Court to indicate its reasons why it has either granted or refused bail. This is for the reason that the outcome of the application has a significant bearing on the liberty of the accused on one hand as well as the public interest in the due enforcement of criminal justice on the other. The rights of the victims and their families are at stake as well. These are not matters involving the private rights of two individual parties, as in a civil proceeding. The proper enforcement of criminal law is a matter of public interest. We must, therefore, disapprove of the manner in which a succession of orders in the present batch of cases has recorded that counsel for the "respective parties do not press for further reasoned order". If this is a euphemism for not recording adequate reasons, this kind of a formula cannot shield the order from judicial scrutiny.

36. Grant of bail under [Section 439](#) of the Cr.P.C is a matter involving the exercise of judicial discretion. Judicial discretion in granting or refusing bail – as in the case of any other discretion which is vested in a court as a judicial institution – is not unstructured. The duty to record reasons is a significant safeguard which ensures that the discretion which is entrusted to the court is exercised in a judicious manner. The recording of reasons in a judicial order ensures that the thought process underlying the order is subject to scrutiny and that it meets objective standards of reason and justice.” (emphasis supplied)

29. Similarly, this Court in *Ram Govind Upadhyay (Supra)*, observed that :-

“3. Grant of bail though being a discretionary order but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for Bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the Court and facts however do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always be coupled with other circumstances

warranting the grant of bail. The nature of the offence is one of the basic consideration for the grant of bail more heinous is a crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”

30. A two-Judge Bench of this Court in *Mahipal Vs. Rajesh Kumar* (2020) 2 SCC 188 observed :-

“14. The provision for an accused to be released on bail touches upon the liberty of an individual. It is for this reason that this Court does not ordinarily interfere with an order of the High Court granting bail. However, where the discretion of the High Court to grant bail has been exercised without the due application of mind or in contravention of the directions of this Court, such an order granting bail is liable to be set aside. The Court is required to factor, amongst other things, a prima facie view that the accused had committed the offence, the nature and gravity of the offence and the likelihood of the accused obstructing 16 (2020) 2 SCC 118 the proceedings of the trial in any manner or evading the course of justice. The provision for being released on bail draws an appropriate balance between public interest in the administration of justice and the protection of individual liberty pending adjudication of the case. However, the grant of bail is to be secured within the bounds of the law and in compliance with the conditions laid down by this Court. It is for this reason that a court must balance numerous factors that guide the exercise of the discretionary power to grant bail on a case by case basis. Inherent in this determination is whether, on an analysis of the record, it appears that there is a prima facie or reasonable cause to believe that the accused had committed the crime. It is not relevant at this stage for the court to examine in detail the evidence on record to come to a conclusive finding.”

32. In a recent judgment in **Rohit Bishnoi Vs.State of Rajasthan**⁸, the Apex Court held that it is not necessary for the Court to assign elaborate reasons regarding the prosecution case while granting or rejecting bail. Paragraph Nos.18 to 23 are relevant and the same are extracted below:-

18. This Court has, on several occasions discussed the factors to be considered by a Court while deciding a bail application. The primary considerations which must be placed at balance while deciding the grant of

⁸ 2023 (2) LS 109 SC

bail are: (i) The seriousness of the offence; (ii) The likelihood of the accused fleeing from justice; (iii) The impact of release of the accused on the prosecution witnesses; (iv) Likelihood of the accused tampering with evidence. While such a list is not exhaustive, it may be stated that if a Court takes into account such factors in deciding a bail application, it could be concluded that the decision has resulted from a judicious exercise of its discretion, vide *Gudikanti Narasimhulu vs. Public Prosecutor, High Court of Andhra Pradesh*- [(1978) 1 SCC 240] ; *Prahlad Singh Bhati vs. NCT, Delhi*– [(2001) 4 SCC 280] ; *Anil Kumar Yadav vs. State (NCT of Delhi)* - [(2018) 12 SCC 129].

19. This Court has also ruled that an order granting bail in a mechanical manner, without recording reasons, would suffer from the vice of non-application of mind, rendering it illegal, vide *Ram Govind Upadhyay vs. Sudarshan Singh*- [(2002) 3 SCC 598]; *Prasanta Kumar Sarkar vs. Ashis Chatterjee* – [(2010) 14 SCC 496]; *Ramesh Bhavan Rathod vs. Vishanbhai Hirabhai Makwana (Koli)*– [(2021) 6 SCC 230] ; *Brijmani Devi vs. Pappu Kumar* (supra).

20. Reference may also be made to recent decisions of this Court in *Manoj Kumar Khokhar vs. State of Rajasthan*– [2022 SCC OnLine SC 30] and *Jaibunisha vs. Meharban*– [(2022) 5 SCC 465], wherein, on engaging in an elaborate discussion of the case law cited supra and after duly acknowledging that liberty of individual is an invaluable right, it has been held that an order granting bail to an accused, if passed in a casual and cryptic manner, de hors reasoning which would validate the grant of bail, is liable to be set aside by this Court while exercising power under Article 136 of the Constitution of India.

21. The Latin maxim “*cessante ratione legis cessat ipsa lex*” meaning “reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself,” is also apposite.

22. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail, courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing on the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a Court to arrive at a prima facie conclusion. While considering an application for grant of bail, a prima-facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment

that would follow a conviction *vis-à-vis* the offence/s alleged against an accused.

23. We have extracted the relevant portions of the impugned order above. At the outset, we observe that the extracted portions are the only portions forming part of the “reasoning” of the High Court while granting bail. As noted from the afore-cited judgments, it is not necessary for a Court to assign elaborate reasons or engage in a roving inquiry as to the merits of the prosecution’s case while granting bail, particularly, when the trial is at the initial stages and the allegations against the accused would not have been crystallized as such. Elaborate details cannot be recorded so as to give an impression that the case is one that would result in a conviction or, by contrast, in an acquittal while passing an Order on an application for grant of bail. However, the Court deciding a bail application cannot completely divorce its decision from material aspects of the case such as the allegations made against the accused; severity of the punishment if the allegations are proved beyond reasonable doubt and would result in a conviction; reasonable apprehension of the witnesses being influenced by the accused; tampering with the evidence; criminal antecedents of the accused; and a prima-facie satisfaction of the Court in support of the charge against the accused.

33. In the light of the aforesaid principles, coming to the facts of the case on hand, as discussed supra, *prima facie*, there are serious allegations against both the petitioners herein. A.7 is father of A.8 and he is close relative of the present Chief Minister of Andhra Pradesh. Most of the witnesses are from the State of Andhra Pradesh. A.8 is sitting Member of Parliament from Kadapa Lok Sabha Constituency and A.7 is his father.

34. As discussed supra, considering the said aspects and also the fact that there is **larger conspiracy and destruction of evidence**, the High Court of Andhra Pradesh, vide order dated 11.03.2020 in W.P.No.3944 of 2020 entrusted the investigation to CBI. On completion

of investigation, the CBI laid charge sheet dated 26.11.2021, supplementary charge sheets on 31.01.2022 and 28.06.2023. During the course of hearing, learned Special Public Prosecutor for CBI, on instructions, submitted that the investigation in the aforesaid S.C.No.1 of 2023 is over except obtaining some reports.

35. With regard to reliability of statements of Shaik Dasthagiri (A.4), recorded under Sections 161, 164 and 306 of CrPC, it is relevant to note that the order of grant of pardon to him was challenged by A.1 and A.3 vide CrI.P.Nos.6976 and 6980 of 2021. Vide order dated 16.02.2022, the High Court of Andhra Pradesh at Amaravati, dismissed the said petitions. In the said order, the High Court considered the principle laid down by the Apex Court in **CBI Vs. Ashok Kumar Agarwal⁹** and also four grounds enumerated to interfere with the order on the ground of pardon. The said order was challenged in the Apex Court and vide order dated 10.10.2022, the Apex Court dismissed the SLP. Therefore, the ground of pardon to the Approver i.e. Shaik Dasthagiri (A.4) attained finality.

36. As rightly contended by the learned Special Public Prosecutor for CBI and also the learned Senior Counsel appearing for 2nd respondent,

⁹ 2001 CrLJ 1905

this Court cannot conduct a roving enquiry regarding the prosecution case while deciding bail petition and this Court cannot consider the reliability of the statements of prosecution witnesses. The said principle was also laid down by the Apex Court in **Rohit Bishnoi** supra.

37. It is also relevant to note that in Judgment dated 29.11.2022 in W.P.(CrI) No.169 of 2022 filed by 2nd respondent and her mother, the Apex Court considering the apprehension expressed by them, transferred the trial from CBI Special Court, Kadapa to CBI Special Court, Hyderabad. Paragraph Nos.10 to 14 are relevant and the same are extracted below:-

10. Even two key witnesses, namely, Shaik Dastagiri and Ranganna are already given the police protection under the Witnesses Protection Scheme, 2018, pursuant to the order passed by the learned Sessions Court, considering the life threat perception. Even in the response to the present petition, learned counsel appearing on behalf of the State has also produced the orders passed by the competent authority granting police protection to two witnesses.

11. As observed hereinabove, one of the witnesses who was to record his statement under Section 164 Cr.P.C. has not appeared for recording of his statement, though initially he volunteered to give the statement under Section 164 Cr.P.C. The reason seems to be that thereafter his suspension order has been revoked and he has been taken back on duty.

12. From the facts narrated hereinabove, it emerges that one of the key witnesses, namely, K. Gangadhar Reddy, though initially he volunteered to give his statement under Section 164 Cr.P.C. and the CBI submitted an application to record his statement under Section 164 Cr.P.C., thereafter he did not turn up to get

his statement recorded and on the contrary he made a statement before the media that he was being pressurized by the CBI. That thereafter he has died under mysterious circumstances.

13. Considering the aforesaid facts and circumstances, it cannot be said that apprehension on the part of the petitioners being daughter a wife of the Deceased that there may not be a fair trial and that there may not be any independent and fair investigation with respect to further investigation on larger conspiracy and destruction of evidence at the scene of incident is imaginary and/or has no substance at all. The petitioners being daughter and wife of the Deceased have a fundamental right to get justice as victim and they have a legitimate expectation that criminal trial is being conducted in a fair and impartial manner and uninfluenced by any extraneous considerations. Under the circumstances, we are of the opinion that this is a fit case to transfer the trial and further investigation on larger conspiracy and destruction of evidence to the State other than the State of Andhra Pradesh.

14. As per the settled position of law, justice is not to be done but the justice is seen to have been done also. As per the settled position of law, free and fair trial is sine qua non of Article 21 of the Constitution. If the criminal trial is not free and fair and if it is biased, judicial fairness and the criminal justice system would be at stake, shaking the confidence of the public in the system. However, at the same time, looking to the large number of witnesses to be examined during the trial and no hardship is caused to those witnesses, we are of the opinion that instead of transferring the trial to New Delhi, it may be transferred to CB Special Court at Hyderabad.

38. It is also relevant to note that A.6 filed a complaint under Section 200 Cr.P.C. against the then Investigating Officer i.e. Mr. Ram Singh and the same was referred to the police by the learned Magistrate, who in turn, registered a case in Cr.No.29 of 2022. Mr. Ram Singh, filed

a petition under Section 482 of Cr.P.C. vide CrI.P.No.1258 of 2022 on High Court of Andhra Pradesh granted stay of all further proceedings.

39. It is apt to note that, *prima facie*, there is specific allegation against the petitioners and other accused that the P.W.9, Sri J.Shankaraiah, the then Circle Inspector has mentioned the role of the petitioners and others in his statement given to CBI under Section 161 of Cr.P.C. He also expressed his willingness to give his statement under Section 164 of Cr.P.C. He was placed under suspension and the same was revoked thereafter. He has addressed a letter to the Superintendent of Police, Kadapa stating that the CBI pressurized him to turn as an Approver. P.W. 243, Sri Kalluru Gangi Reddy, also gave statement under Section 161 of Cr.P.C. stating that A.5 told him that he along with A.7 and A.8 planned the murder of the Deceased and got it executed through some new persons. Though he agreed to give statement under Section 164 of Cr.P.C. subsequently he refused to give the statement. Two witnesses died in suspicious circumstances.

40. It is relevant to note that the Court below dismissed the bail applications filed by A.5 vide order dated 02.03.2022 and the High Court and the Apex Court also dismissed the bail applications filed by him.

41. As discussed supra, reliability of the statements of witnesses including statement of Approver recorded under Sections 161, 164 and 306 of Cr.P.C can be considered by the trial Court during trial and the same cannot be considered while deciding the bail application, more particularly, in the light of the aforesaid findings of the Apex Court.

42. It is apt to note that in the aforesaid charge sheets CBI specifically stated that the investigation conducted by Investigating Officer, obtaining forensic analysis of 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.

43. It is relevant to note that except A.4 - Approver, other accused are in judicial custody. A.1 was released on default bail. This Court cancelled the said default bail granted to A.1, he was sent to judicial custody considering the contention of CBI that all the accused are interfering with the investigation. This Court granted anticipatory bail to A.8 and the same is under challenge before Hon'ble Apex Court.

44. A.6 is the close associate of A.8, A.7 and A.5. As per the investigation conducted by CBI, he was found active in the intervening

night of 14/15.03.2019 and he had visited the house of A.8 and A.7 several times besides other relevant places. He was having knowledge of death of the deceased early in the morning around 3.30 - 4.00 A.M. on 15.03.2019. He had prior knowledge of conspiracy and in order to facilitate the coordinate amongst the co-accused persons, he had taken leave on 15.03.2019 by submitting leave application on 14.03.2019. He visited the house of A.8/A.7 on 13.03.2019 and 14.03.2019 in the evening while A.2 also visited the house of A.8/A.7. He had visited the house of A.8/A.7 in the early morning of 15.03.2019, accompanied A.8 and A.5 for destruction of evidence and thus he was fully aware of the murder of the Deceased and thereafter, he was accompanied A.8 and others at the residence of the Deceased. He was also involved in the destruction of evidence at the scene of crime as he called his father Gajjela Jaya Prakash Reddy at 6.35 A.M. on 15.03.2019 soon after he arrived at the residence of the Deceased in conspiracy with other accused for applying cotton and bandages on grievous injuries of the dead body of the Deceased to conceal the same. Therefore, he is also part of criminal conspiracy for murder of the Deceased and destruction of the evidence at the scene of offence. In the light of the same, the contention of learned Senior Counsel that there is nothing against A.6 cannot be accepted.

45. As discussed supra, there is *prima facie*, and reasonable ground to believe that the petitioners herein/A.6 and A.7 have committed the offence which is serious and grave in nature. They are very close relatives of the present Chief Minister of the State of Andhra Pradesh and A.8, father of A.7 is sitting Member of Parliament from Kadapa Parliament Constituency. They are highly influential persons. All the witnesses are from the State of Andhra Pradesh and thus there is every possibility of the petitioners herein threatening/influencing the witnesses in which event, it may not be possible to the trial Court to conduct trial in a fair and transparent manner. Therefore, protection of witnesses and fairness of the trial have to be taken care of. In the light of the said discussion, the contention of Sri T.Niranjan Reddy, learned Senior counsel appearing for the petitioners that in the event of threatening/influencing witnesses by the petitioners/accused, Investigating Officer can seek for cancellation of bail cannot be accepted.

46. Considering the said aspects and also perusal of entire C.D. file, Court below dismissed the bail petitions filed by both the petitioners vide orders dated 09.06.2023 and 15.05.2023 holding that, *prima facie*, there are serious allegations against both the petitioners and *prima facie*

there is evidence that they are part of the conspiracy in committing murder of the Deceased and that they are trying to destruct the evidence.

47. In the light of the aforesaid discussion, this Court is not inclined to grant bails to the petitioners herein at this stage and both the criminal petitions are liable to be dismissed.

48. In the result, both the Criminal Petitions are dismissed.

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

JUSTICE K. LAKSHMAN

Date:04 .09.2023

Vvr

Note: Issue CC today.

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