

**IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**

THURSDAY, THE EIGHTH DAY OF FEBRUARY  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**

**THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA**

**CRIMINAL APPEAL NO: 804 OF 2023**

**Between:**

1. JANEPALLI SRINIVASA RAO ALIAS J.SRINIVASA RAO,  
S/o J.Tata Rao, age 34 years, Permanent resident of Thanelanka  
Village, East Godavari District, A.P.

**...APPELLANT(S)**

**AND**

1. THE STATE ANDHRA PRADESH, rep by Special Public  
Prosecutor, National Investigation Agency, High Court of  
Andhra Pradesh, Amaravathi.

**...RESPONDENTS**

**JUDGMENT:** *(Per Hon'ble Sri Justice U. Durga Prasad Rao)*

This Criminal Appeal is filed by the petitioner/accused, under Section 21(4) of the National Investigation Agency Act, 2008 (for short, 'the NIA Act, 2008') challenging the order dated 22.09.2023

passed by the learned III Additional District Judge-cum-Special Judge for SPE & ACB Cases, Visakhapatnam, dismissing the bail application filed by the petitioner in CrI.M.P.No.2369/2023 in Crime No.RC/01/2019/NIA/HYD.

2. The factual matrix of the case is thus:

(a) According to the prosecution, the victim during the relevant period was the leader of opposition political party and presently the Hon'ble The Chief Minister of the State of Andhra Pradesh. On 25.10.2018, at about 12.00 noon, the victim along with his party members entered the VIP Lounge of the Visakhapatnam Airport to go to Hyderabad. The accused, who was working as Waiter in Fusion Food Restaurant in Airport went to the VIP Lounge to serve tea to the victim and others and requested for a selfie and when the victim obliged him, the accused went close to him and attacked him with a Rooster (Cock) knife and intended to stab on the neck, but when the victim moved, in the process the accused inflicted an injury on the upper left arm of the victim. Immediately, the Protocol officers, local

police and CISF personnel came inside and caught the accused and apprehended him. The victim followed by his party members and security personnel came outside and after receiving medical treatment by the duty doctor of the Airport help desk, he left for Hyderabad by the same scheduled flight and thereafter proceeded to Citi Neuro Centre, Hyderabad and got himself treated by the Doctors. The Doctors opined that the injury caused to the victim was simple injury.

(b) While so, on the complaint of the Security Officer of Visakhapatnam Airport, the Airport police registered a case in Cr.No.648/2018 against the accused for the offence punishable under Section 307 IPC and later he was remanded to judicial custody.

(c) While so, the Central Government (Ministry of Home Affairs, New Delhi) vide its order in F.No.11011/84/2018/NIA dated 31.12.2018, directed the National Investigating Agency (for short, 'the NIA') to take up investigation in view of the gravity of the offence that was occurred in the Airport premises. Thus, the NIA has taken over the investigation and re-registered the aforementioned crime as a

case in RC-01/2019/NIA/HYD dated 01.01.2019 under Section 307 IPC and Section 3A(1)(a) of the Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982 (for short, 'the Act 1982') and proceeded with investigation. The said Agency, on completion of investigation, laid charge sheet against the accused for the offence punishable under Section 307 IPC and Section 3A(1)(a) of the Act 1982 and the same was taken cognizance by the learned Metropolitan Sessions Judge-cum-Special Court for NIA cases at Vijayawada.

(d) While so, the accused earlier filed CrI.M.P.No.741/2019 seeking bail and same was allowed by the learned Special Judge by order dated 22.05.2019. Aggrieved, the NIA filed Criminal Appeal No.478/2019 and vide order dated 19.07.2019 a Division Bench of this Court having found that the trial Court while dealing with the bail application has not considered the parameters fixed in Section 6A of the Act, 1982 for granting bail, allowed the criminal appeal and remanded back the matter to the trial Court to pass an appropriate orders after hearing all concerned taking into consideration Section 6A of the Act, 1982. Ergo, learned Special Judge restored the CrI.

MP No.741/2019 and heard both parties. Learned Special Judge having regard to the material produced before him was of the view that a *prima facie* case for the offences U/s 307 IPC as well as offences U/s 3A(1)(a) of the Act, 1982 was made out against the accused and therefore there was no possibility to say that there were no reasonable grounds for believing that the accused was not guilty of the said offences and that he was not likely to commit any offences while on bail. Learned Special Judge further observed that as per information produced by NIA, the accused was earlier involved in another offences in Crime No.48/2017 dated 02.03.2017 for the offence punishable U/s 323, 506 r/w 34 IPC of Mummidivaram Village PS, East Godavari District. On such observations learned Special Judge explicated that he was not satisfied that there were no reasonable ground for believing that the accused was not guilty of the offences punishable U/s 3A(1)(a) of the Act, 1982 and accordingly dismissed the bail application vide his order dated 16.08.2019.

(e) Subsequently, the accused filed another bail application in CrI.M.P.No.2369/2023 and the said application was also dismissed by

order dated 22.09.2023. Hence the instant criminal appeal by the accused.

3. The respondent filed counter and opposed the criminal appeal.
4. Heard learned counsel for the petitioner Sri Srinivasulu P and Sri B. Narasimha Sarma, learned Additional Solicitor General, representing NIA.
5. It should be noted that the NIA has charge-sheeted the accused for the offence U/s 307 IPC and Section 3A(1)(a) of the Act, 1982. As stated supra, the earlier when bail was granted to the accused in CrI.M.P.No.741/2019, on appeal this Court set aside the bail order and remanded the matter to the trial Court to hear and consider the matter in terms of Section 6A of the Act, 1982 and pass orders. Thereafter the trial Court re-opened the matter and observed that the material available before the Court made out *prima facie* case against the accused for the offence punishable U/s 3A(1)(a) of the Act, 1982 along with offence punishable U/s 307 IPC, 1860. Then the trial

Judge considered the rigor of Section 6A of the Act, 1982. Section 6A of the Act, 1982 reads thus:

**“6A. Provision as to bail.—**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless—

- (a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and
- (b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail”

(2) The limitations on granting of bail specified in sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973 (2 of 1974)”

The above provision explicates that when a person is accused of offences punishable under the Act, 1982 and seeks for bail, and when the public prosecutor opposes the bail application, Section 6A ordains that the Court can order release of the accused on bail provided it is satisfied that there are reasonable grounds for believing that he is not

guilty of such offence and that he is not likely to commit any offence while on bail. Having regard to this provision, the trial Court observed that the material produced by the NIA made out *prima facie* case for the offences punishable U/s 307 IPC as well as offence punishable U/s 3A(1)(a) of the Act, 1982 against the accused and therefore there was no possibility to say that there were no reasonable grounds for believing that the accused was not guilty of such offences that he was not likely to commit any offences while on bail. In essence, the trial Court's observation was that the case of the accused does not fall within the ambit of Section 6A(1)(b) of the Act, 1982 to enlarge him on bail. The bail was refused mainly on the said ground. Subsequently in the Criminal M.P.No.2369/2023 filed by the accused which is a renewed bail application, the trial Court made similar observations as follows:

“In the present case there is a specific allegation that the accused contravent the provisions U/Sec.3A of the suppression of unlawful Acts against safety of Civil Aviation Act, 1982. The trial is commenced, one witness was examined. At this stage it cannot be concluded basing on the 161 Cr.P.C statements of the witnesses or basing on the oral arguments of the petitioner that there are no grounds to believe that the petitioner is not guilty of the offences charged against him i.e., U/Sec.3A of suppression of unlawful Acts against safety of Civil Aviation Act, 1982. It is



also pertinent to note that earlier in CrI.M.P.741/2019 this Court discussed the provisions U/Sec.6A of suppression of unlawful Acts against safety of Civil Aviation Act, 1982 and observed *“that the available material makes out prima facie case for the offence punishable U/Sec.307 IPC as well as the offence punishable U/Sec.34A(1)(a) of suppression of unlawful Acts against safety of Civil Aviation Act, 1982 against the accused and there is no possibility to say that there are no reasonable grounds for believing that the accused is not guilty of such offence.”* Therefore in view of the earlier discussion it can be safely concluded that the accused is not entitled for the release of bail.

That is how in the previous orders bail was rejected to the accused.

6. Now the argument of learned counsel for the petitioner is dipronged. Firstly, learned counsel agued that the facts in the case do not attract offence U/s 307 IPC and also the offence U/s 3A(1)(a) of the Act, 1982 and trial Court on wrong premise denied the bail. His argument is that even if the prosecution case is accepted to be true, it only reveals that the accused by using the cock fight knife committed an act of violence and nothing more. Learned counsel strenuously argued that the injury did not result in grievous hurt or death so as to attract the offence U/s 3A(1)(a) of the Act, 1982. His submission is that mere using of any device, substance or weapon and committing

an act of violence without there being likelihood of causing grievous injury or death will not attract offence U/s 3A of the Act, 1982. He submits that entire Section 3A (1)(a) has to be read conjunctively to know whether the act of violence committed by the accused has the likelihood of causing grievous hurt or death to bring the offence within the fold of Section 3A. Learned counsel would submit that in the FIR registered immediately after the alleged offence, it was only alleged as if the accused stood beside the victim on his left side seeking for selfie and attacked with a small knife on his upper left hand below the shoulder and on that he sustained a bleeding injury on his hand. Learned counsel argued that except that in the FIR it was not specifically alleged that the accused tried to inflict injury on the neck of the victim and when he averted, in the process the accused inflicted injury on the left upper hand of the victim. The said allegation was made only in the charge-sheet so as to bring the offence within the sphere of Section 3A of the Act, 1982. Learned counsel would thus conclude that whether the accused tried to make an attempt on the life of the victim and whether the violence allegedly

committed by him with the help of device, substance or weapon was likely to cause grievous injury or death is a matter of fact to be decided at the end of the trial but as of now the indisputable facts such as FIR and wound certificates will not suggest an inference that the act of the accused was likely to cause grievous hurt or death of the victim. Therefore, in terms of Section 6A, he would submit, the Court can be satisfied that there are reasonable grounds to believe that the accused is not guilty of “such offence” as narrated in Section 3A. He lamented that unfortunately the trial Court has not properly applied the facts on hand to the provisions of Section 3A and Section 6A in right perspective and unjustly dismissed the bail application.

Secondly, he argued that the petitioner has been languishing in jail since more than five years and though charge-sheet was filed in the year 2019 listing about 56 witnesses, the trial was not commenced immediately but started belatedly in March, 2023 and so far PW1-the complainant alone was examined. Learned counsel would submit that when the matter came up for the evidence of the victim i.e., LW2, a petition in CrI MP No.100/2023 was filed by him with a prayer to

appoint an Advocate Commissioner / or to record evidence through video conference or by any electronic mode and the case is being adjourned from time to time for hearing the said petition and thereby the delay is caused in trial proceedings.

Learned counsel would further submit that the victim also filed another CrI MP.No. 101/2023 before trial Court with a prayer to direct further investigation in the matter but the Special Court after hearing both sides dismissed the said petition. Aggrieved the petitioner filed CrI.P No.8057/2023 before the High Court of A.P. and by order dated 17.10.2023 all further proceedings including appearance of the victim were stayed by this Court.

Thus learned counsel would conclude that in view of above events there is no immediate possibility of trial being completed within a reasonable time though as per the provisions of law trial has to be conducted day-to-day. Learned counsel would submit that in view of long incarceration of the petitioner in jail and due to the prolonged trial, his fundamental right to liberty is denuded on one

hand and he is deprived of defending his case effectively by briefing his Advocate and thereby fair trial became a casualty in his case. He thus prayed to allow the criminal appeal and grant bail.

7. In oppugnation and in tune with the counter averments, Sri B. Narasimha Sarma, learned Additional Solicitor General argued that the petitioner committed grave offence of causing violence by using weapon against a public functionary in broad day light that too in a high security premises of an Airport and caused panic among general public and the incident was witnessed by the party members, CISF security personnel and others and the accused was overpowered and apprehended immediately. In that view, it is naïve to contend that the petitioner did not commit an offence punishable U/s 3A(1)(a) of the Act, 1982. Learned counsel further argued that as per Section 3A(1)(a), suffice if the act of violence is 'likely' to cause grievous hurt or death and it is not at all mandatory that the act must result in grievous hurt or death. He argued that in view of the cogent material showing that the petitioner attempted to attack on the neck of the victim, there was every likelihood of causing grievous hurt or death to

the victim and therefore the offence was clearly made out. In previous bail applications the trial Court has rightly taken into consideration all these aspects and dismissed his bail applications and therefore it cannot be said that bail was unjustly refused.

Nextly, on the delay aspect learned Additional Solicitor General argued that there are no laches on the part of NIA in conducting trial. Charge sheet was promptly filed in the year 2019 and thereafter the trial could not be taken up immediately due to the prevalence of COVID-19 PANDEMIC. After restoring normalcy, the trial commenced and PW1 was examined and at that stage LW2 - the victim filed CrI.MP No.100/2023 to appoint an Advocate Commissioner to record his evidence through video conference or by any electronic mode and the said petition is pending for enquiry. Learned counsel further submitted that the victim also filed CrI.MP.No.101/2023 seeking further investigation in the matter. However, the said petition was dismissed and aggrieved, he filed CrI.A.No.8057/2023 before the High Court wherein interim stay of all further proceedings in the case was granted and as soon as the said

matter is disposed of, the prosecution will proceed with the trial. He further argued that since the trial is in crucial stage, if granted bail, the petitioner may flee and thereby trial will be stalled. He thus prayed to dismiss the criminal appeal.

8. The point for consideration is whether there are merits in the Criminal Appeal to allow ?

9. **POINT:** We gave our anxious consideration to the above respective submissions. The petitioner is charge-sheeted U/s 307 IPC and Section 3A(1)(a) of the Act, 1982. The offence U/s 307 IPC may not be a hurdle for considering the bail application because charge sheet was filed in the year 2019 itself, accused has been in custody all along and trial is also commenced. Further, it is not the case of the prosecution that if granted bail he will tamper with the evidence. The only apprehension made by learned Additional Solicitor General is that the accused may flee and may not be available for trial, which apprehension can be taken care if the petitioner ultimately deserves bail. In that view, perhaps the trial Court in the impugned order has

not given importance and discussed about the offence U/s 307 IPC being a hurdle for considering the bail application.

10. Then coming to Section 3A of Act, 1982, the said offence reads thus:

**“3A. Offence at airport.—**

(1) Whoever, at any airport, unlawfully and intentionally, using any device, substance or weapon,—

- (a) commits an act of violence which is likely to cause grievous hurt or death of any person; or
- (b) destroys or seriously damages any aircraft or facility at an airport or disrupts any service at the airport, endangering or threatening to endanger safety at that airport, shall be punished with imprisonment for life and shall also be liable to fine.

(2) Whoever attempts to commit, or abets the commission of, any offence under sub-section (1) shall also be deemed to have committed such offence and shall be punished with the punishment provided for such offence.”

The precise accusation against the petitioner is that he unlawfully and intentionally used in the Airport a device or substance or weapon and committed an act of violence which is likely to cause grievous hurt or death. Bail for this offence is governed by Section 6A of the Act, 1982. It lays down that notwithstanding anything



contained in the Cr.P.C, no person accused of an offence punishable under this Act shall be released on bail, where the public prosecutor opposed the application unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is likely to commit any offence while on bail. In this context, the argument on behalf of the petitioner is that there are no reasonable grounds for believing that the petitioner is guilty of the offence U/s 3A(1)(a) because the violence allegedly committed by him did not result in grievous hurt or death nor was it likely to cause grievous hurt or death in view of the factual circumstances. It is argued that the accused allegedly attacked with a small knife used for cock fights and the injury caused was on the left upper hand which is not a vital part. No intention to kill or cause grievous injury is alleged in the FIR though such an allegation was purposefully made subsequently in the statement of some of the witnesses. It is argued that when the violence caused did not likely to result in grievous injury or death the Court can safely believe that he is not guilty of offence U/s 3A(1)(a) of Act, 1982.

11. In the light of above argument, we perused the available material. FIR No.648/2018 of Airport PS, Visakhapatnam shows that report was lodged by Sri Dinesh Kumar, Assistant. Commandant, CISF within short time after the incident on 25.10.2018. As rightly argued by learned counsel for the petitioner, in the FIR he only stated that in the VIP Lounge the accused asked for a selfie with the victim and at that time the accused stood with the victim on his left side and attacked with a small knife on the left upper hand below the shoulder and thereby he sustained a bleeding injury on his hand. It is germane to note that in the FIR there was no specific mention that the accused wielded the knife on the neck of the victim to kill him. We are not oblivious of the fact that a FIR is not an encyclopedia of all the facts relating to a crime but at the same time, an attack with an intention to kill is not a negligible fact to be missed in the FIR. Further, in the evidence of PW1-Dinesh Kumar also, he did not depose that the accused made an attack on the victim with an intention to kill him. Of course, this aspect was mentioned by some other witnesses in their statement. However, we do not find such a version in the earlier

statement. Further, as per the wound certificate the injury is a simple injury caused over the posterior aspect of left upper arm. In the evidence of PW1, the knife seized from the accused is marked as MO1 which is described as a small fixed knife around 2.5 inches (with blade and handle).

From the above available facts, for the purpose of considering the bail application, we are satisfied that the violence allegedly committed by the accused neither caused grievous hurt or death nor is likely to cause grievous hurt or death. As rightly argued by the petitioner, mere using the device, substance or weapon and committing the act of violence is not the be all and end all of the offence U/s 3A unless such violence is likely to cause grievous hurt or death of any person which is not the case in the present instance.

**12.** The next argument of the petitioner is concerned, admittedly the petitioner has been languishing in jail since more than five and half years. Though charge sheet was filed in the year 2019 trial could not be commenced till 2023, of course due to COVID-19 PANDEMIC for

some time. Admittedly, the victim filed Crl.MP No.100/2023 to appoint an Advocate Commissioner to record his evidence through video conference and the same is pending for consideration. He filed another Crl.MP No.101/2023 seeking further investigation in the matter and same was dismissed and in resultant Crl.P.No.8057/2023, this Court granted interim stay of all further proceedings in SC No.5/2023. Thus for whatever reason, without the fault of the petitioner the trial is being delayed.

**13.** Here it must be noted that right to speedy trial is implicit in the broad sweep and content of Article 21 of Constitution of India. A quest for speedy trial shall not remain as a desolate mirage but serve as an oasis. Expeditious trial and freedom from detention are part of human rights and a judicial system which allow incarceration of men and women for long periods of time without trial otherwise amounts to denying human rights to under trials, more so, when the delay was not attributable to the accused in jail. The constitutional imperative of speedy trial was delineated by a Constitutional Bench of Apex Court

in **Abdul Rehman Autulay v. R.S. Nayak**<sup>1</sup> wherein the Supreme Court *inter alia* laid the following propositions:

(1) Right to speedy trial is implicit in the broad sweep and content of Article 21.

(2) That unless the procedure prescribed by law ensure a speedy trial it cannot be said to be reasonable, fair or just. Expeditious trial and freedom from detention are part of human rights and basic freedoms and that a judicial system which allow incarceration of men and women for long periods of time without trial must be held to be denying human rights to such under trials.

The above decision was approved by another Constitutional Bench in **P. Rama Chandra Rao v. State of Karnataka**<sup>2</sup>. Thus there can be no demur that speedy trial within a reasonable time is the legitimate expectation of an accused incarcerated in jail like the present petitioner. However, for whatever reasons, the completion of the trial is not possible in the near future for which the petitioner cannot be attributed with any fault. Therefore, we find force in the submission of learned counsel for the petitioner that due to long

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<sup>1</sup> 1992(1) SCC 225

<sup>2</sup> AIR 2002 SC 1856

incarceration, the petitioner is not able to defend his case in an effective manner apart from languishing in jail. We did not find any fervent argument of learned Additional Solicitor General that if granted bail the petitioner will be in a position to tamper with the evidence. On the other hand, it is argued that he may flee and not available for the trial and the case being a sensational one, the petitioner may gabble untruthful facts before media which may adversely effect the smooth sailing of the trial process. In our view, these apprehensions can be taken care of.

**14.** Accordingly, this Criminal Appeal is allowed setting aside the order in CrI.MP.No.2369/2023 in SC No.126/2019 (Crime No.RC/01/2019/NIA/HYD) passed by learned Special Judge for trial of NIA cases-cum-III Additional District and Sessions Judge, Visakhapatnam and the petitioner/accused is directed to be enlarged on bail on his executing a personal bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for like sum to the satisfaction of trial Court. On release, the accused shall mark his appearance before SHO, Mummidivaram Police Station, East

Godavari District on every Sunday between 10:00 AM and 5:00 PM until further orders. He shall cooperate with the trial Court for smooth completion of trial. He is further directed not to give any statements before print and electronic media. The trial Court shall proceed with trial without being influenced by the observations made in this order.

As a sequel, interlocutory applications pending, if any, shall stand closed.

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**U. DURGA PRASAD RAO, J**

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**KIRANMAYEE MANDAVA, J**

08.02.2024  
KRK / MVA

**HE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**

**THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA**

CRIMINAL APPEAL NO: 804 OF 2023

08<sup>th</sup> February, 2024

krk/mva