

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI  
TUESDAY, THE FOURTH DAY OF AUGUST  
TWO THOUSAND AND TWENTY

:PRESENT:

THE HONOURABLE SRI JUSTICE M.VENKATA RAMANA

CRIMINAL PETITION NO: 2885, 2884, 2837, 2844, 2838, 2842,  
2843, 2882, 2841, 2845, 2881 and 2883 OF 2020



**CRIMINAL PETITION NO: 2885 of 2020**

**Between:**

Mr. PPC Mohan Rao, Hindu, Age 55, S/o. P. Kota Naganna, Resident of  
Flat No- F-1 Pearl Residency, Santhinagar, Vishakhapatnam – 530009

**Petitioner/Accused No.1**

**AND**

The State of Andhra Pradesh, Represented by the Station House Officer Gopalapatnam  
PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the Petitioner in case arising out of FIR Crime No. 213 of 2020 under Sections 278, 284, 285, 337, 338, and 304-II registered at PS Gopalapatnam, as otherwise the Petitioner may, inter alia, be subjected to the grave effects of COVID-19, and Petitioner and his family members will be put to serious loss and hardship. The Petitioner undertakes to comply with conditions as may be imposed by this Honourable Court in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri D. Narendar Naik Advocate for the Petitioner and of Public Prosecutor for the Respondent.

**CRIMINAL PETITION NO: 2884 of 2020**

**Between:**

KS Kiran Kumar, Hindu aged 50 year, S/o K. Surya Rao R/o D.no.-58-22-21, Susarla colony, Butchirajupalem, Visakhapatnam, 530027

**Petitioner/Accused No.2**

**AND**

The State of Andhra Pradesh, Represented by the Station House Officer Gopalapatnam  
PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the Petitioner in case arising out of FIR Crime No. 213 of 2020 under Sections 278, 284, 285, 337, 338, and 304-II registered at PS Gopalapatnam, as otherwise the Petitioner may, inter alia, be subjected to the grave effects of COVID-19, and Petitioner and his family members will be put to serious loss and hardship. The Petitioner undertakes to comply with conditions as may be imposed by this Honble Court in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri D. Narendar Naik Advocate for the Petitioner and of Public Prosecutor for the Respondent.

**CRIMINAL PETITION NO: 2837 of 2020**

**Between:**

Sunkey Jeong, Catholic, aged 56 years S/o Ansu Jeong, Presently residing at Flat No.504 Balaji R Square Pandurangapura. Harbour park Road Vishakhapatnam - 530003

**Petitioner/Accused No.3**

**AND**

The State of AP, The State of A.P. Represented by the Station House Officer  
Gopalapatnam PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the Petitioner in case arising out of FIR Crime No. 213 of 2020 under Sections 278, 284, 285, 337, 338, and 304-II registered at PS Gopalapatnam, as otherwise the Petitioner may, inter alia, be subjected to the grave effects of COVID-19, and Petitioner and his family members will be put to serious loss and hardship. The Petitioner undertakes to comply with conditions as may be imposed by this Hon'ble Court in the interest of justice.

The petition/Appeal coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri Doddala Yathindra Dev Advocate for the Petitioner and of Public Prosecutor for the Respondent.

**CRIMINAL PETITION NO: 2844 of 2020**

**Between:**

Dongsoo Kim, Buddhist, 46 years, S/o Jaeon Kim Presently residing at Red Creek Apartment, Flat no 301, Pandurangapuram, Near harbour Park Road, Visakhapatnam - 530003

**Petitioner/Accused No.4**

**AND**

The State of AP, Represented by the Station House Officer, Gopalapatnam  
PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the Memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the Petitioner in case arising out of FIR Crime No. 213 of 2020 under Sections 278, 284, 285, 337, 338, and 304-II registered at PS Gopalapatnam, as otherwise the Petitioner may, inter alia, be subjected to the grave effects of COVID-19, and Petitioner and his family members will be put to serious loss and hardship. The Petitioner undertakes to comply with conditions as may be imposed by this Hon'ble Court in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Doddala Yathindra Dev Advocate for the Petitioner and of Public Prosecutor for the Respondent.

**CRIMINAL PETITION NO: 2838 of 2020**

**Between:**

G. Raju Satyanarayana, Hindu, aged 43 years, S/o. G. Satyanarayana, Resident of Flat No.302, Trendz Flora Apartments, Rushikonda, Visakhapatnam -530045.

**Petitioner/Accused No.5**

**AND**

The State of AP, Represented by the Station House Officer, Gopalapatnam  
PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the Memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the Petitioner in case arising out of FIR Crime No. 213 of 2020 under Sections 278, 284, 285, 337, 338, and 304-II registered at PS Gopalapatnam, as otherwise the Petitioner may, inter alia, be subjected to the grave effects of COVID-19, and Petitioner and his family members will be put to serious loss and hardship. The Petitioner undertakes to comply with conditions as may be imposed by this Hon'ble Court in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri D. Narendra Naik Advocate for the Petitioner and of Public Prosecutor for the Respondent

**CRIMINAL PETITION NO: 2842 of 2020**

**Between:**

CHV Chandrasekhar Hindu, aged 55 years, S/o CHI Narasimham, residing at D.No- 16-159, 2nd Floor, Simhadri Enclave, Rajaji Marg, Prahallada Puram, Visakhapatnam-530029.

**Petitioner/Accused No.6**

**AND**

The state of AP, The State of A.P. Represented by the Station House Officer Gopalapatnam PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the Petitioner in case arising out of FIR Crime No. 213 of 2020 under Sections 278, 284, 285, 337, 338, and 304-II registered at PS Gopalapatnam as otherwise the Petitioner may, inter alia, be subjected to the grave effects of COVID-19, and Petitioner and his family members will be put to serious loss and hardship. The Petitioner undertakes to comply with conditions as may be imposed by this Hon'ble Court in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri D. Narendar Naik Advocate for the Petitioner and of Public Prosecutor for the Respondent.

**CRIMINAL PETITION NO: 2843 of 2020**

**Between:**

KGSN Ramu, S/o Attchibabu. K Age 29 year R/o D.no- 6-200, Padmanabha Nagar, RRV Puram, Gopalapatnam, Visakhapatnam, 530029

**Petitioner/Accused No.7**

**AND**

The State of Andhra Pradesh, Represented by the Station House Officer Gopalapatnam PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the Petitioner in case arising out of FIR Crime No. 213 of 2020 under Sections 278, 284, 285, 337, 338, and 304-II registered at PS Gopalapatnam, as otherwise the Petitioner may, inter alia, be subjected to the grave effects of COVID-19, and Petitioner and his family members will be put to serious loss and hardship. The Petitioner undertakes to comply with conditions as may be imposed by this Hon'ble Court in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri D. Narendar Naik Advocate for the Petitioner and of Public Prosecutor for the Respondent.

**CRIMINAL PETITION NO: 2882 of 2020**

**Between:**

M. Rajesh, Hindu, age 21 years, S/o M Ramu, D.no.40-2-393, Santhi Nagar, Kailasapuram, Visakhapatnam -530024

**Petitioner/Accused**

**AND**

The State of Andhra Pradesh, Represented by the Station House Officer Gopalapatnam PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the Petitioner in case arising out of FIR Crime No. 213 of 2020 under Sections 278, 284, 285, 337, 338, and 304-II registered at PS Gopalapatnam, as otherwise the Petitioner may, inter alia, be subjected to the grave effects of COVID-19, and Petitioner and his family members will be put to serious loss and hardship. The Petitioner undertakes to comply with conditions as may be imposed by this Hon'ble Court in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri D. Narendar Naik, Advocate for the Petitioner and of Public Prosecutor for the Respondent.

**CRIMINAL PETITION NO: 2841 of 2020**

**Between:**

P Balajee, Hindu, aged 35 years S/o Ammanna Setti, residing at 8-170/2, Tailors Colony Beside Raithu Bazar, RRV Puram, Visakhapatnam - 5300029

**Petitioner/Accused No.9**

**AND**

The State of A.P., Represented by the Station House Officer Gopalapatnam PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the petitioner in case arising out of FIR crime no. 213 of 2020 under sections 278, 284, 285, 337, 338 and 304-II registered at PS gopalapatnam as otherwise the petitioner may, inter alia, be subjected to the grave effects of covid - 19 and petitioner and his family members will be put to serious loss and hardship. The petitioner undertakes to comply with conditions as may be imposed by this honourable court in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Vikram Chandra Puttapaga Advocate for the Petitioner and of Public Prosecutor for the Respondent.

**CRIMINAL PETITION NO: 2845 of 2020**

**Between:**

S. Atchyut, Hindu, aged 27 years, S/o Gopi, R/o 3-33, Flat No.121, Midhilapuri Vuda Colony, Patha Madhurawada Metta, Visakhapatnam Visakhapatnam,530041

**Petitioner/Accused No.10**

**AND**

The State of Andhra Pradesh, Represented by the Station House Officer Gopalapatnam PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the Petitioner in case arising out of FIR Crime No. 213 of 2020 under Sections 278, 284, 285, 337, 338, and 304-II registered at PS Gopalapatnam, as otherwise the Petitioner may, inter alia, be subjected to the grave effects of COVID-19, and Petitioner and his family members will be put to serious loss and hardship. The Petitioner undertakes to comply with conditions as may be imposed by this Hon'ble Court in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri Vikram Chandra Puttapaga, Advocate for the Petitioner and of Public Prosecutor for the Respondent.

**CRIMINAL PETITION NO: 2881 of 2020**

**Between:**

K. Chakrapani, K Appa Rao Hindu, aged 30 years, S/o K Apparao, residing at D No. 6-89, Opposite Ambica Dhaba, Desapathruni Palem, Kothavalasa, Vizianagram - 525183 (adjacent to Visakhapatnam)

**Petitioner/Accused No.11**

**AND**

The State of A.P., Represented by the Station House Officer Gopalapatnam PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the Petitioner in case arising out of FIR Crime No. 213 of 2020 under Sections 278, 284, 285, 337, 338, and 304-II registered at PS Gopalapatnam, as otherwise the Petitioner may, inter alia, be subjected to the grave effects of COVID-19, and Petitioner and his family members will be put to serious loss and hardship. The Petitioner undertakes to comply with conditions as may be imposed by this Hon'ble Court in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri Vikram Chandra Puttapaga, Advocate for the Petitioner and of Public Prosecutor for the Respondent.

**CRIMINAL PETITION NO: 2883 of 2020**

**Between:**

KVN Ramesh Patnaik, Hindu, 54 years, S/o K.S.R. Murthy residing at D.No- 9-13, Santosh Nagar, Vepagunta, Visakhapatnam-53004.

**Petitioner/Accused No.12**

**AND**

The State of A.P., Represented by the Station House Officer Gopalapatnam PS, Visakhapatnam

**Respondent/Complainant**

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to grant bail to the petitioner in case arising out of FIR crime no. 213 of 2020 under sections 278, 284, 285, 337, 338, and 304 -IOI registered at PS gopalapatnam as otherwise the petitioner may, inter alia, be subjected to the grave effects of Covid - 19 and petitioner and his family members will be put to serious loss and hardship. the petitioner undertakes to comply with conditions as may be imposed by this honourable court in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri Doddala Yathindra Dev and Public Prosecutor for the Respondent.

**The Court made the following COMMON ORDER**

**HON'BLE SRI JUSTICE M.VENKATA RAMANA**

**CRIMINAL PETITION Nos. 2885, 2884, 2837, 2844, 2838, 2842,  
2843, 2882, 2841, 2845, 2881 and 2883 of 2020**

**COMMON ORDER:**

'Life's Good'. It is always so, on this beautiful planet, the Earth.

2. It was not so indeed for the unfortunate residents of R.R.Venkatapuram, Gopalapatnam Mandal and surrounding areas at the outskirts of Visakhapatnam city on the dreaded night in between 6<sup>th</sup> & 7<sup>th</sup> May, 2020 on account of the uncontrolled Styrene vapour release occurred at L.G.Polymers India Private Limited, a company located at R.R.Venkatapuram, Visakhapatnam District from one of the storage tanks known as 'M6 tank'. This Styrene vapour let into atmosphere like billowing clouds hovered around affecting flora, fauna including water bodies like Meghadrigedda Reservoir etc. This incident occurred, as per the records maintained by the Government, more particularly the reports of the High Power Committee appointed by the Government to look into the cause, the manner of this incident and the steps to take to ameliorate effects of the same as well as to suggest preventive stops to avoid future happenings of similar nature, give this figure: death of 12 persons, 585 injured, loss of livestock (35 in no.) while affecting flora and fauna. The incident occurred in the wee hours of 07.05.2020. Government machinery of various hues had to rush-in, to extend relief and succour to the residents of surrounding areas of this plant.

3. A complaint was presented in respect of this incident by V.R.O. of Venkatapuram village, Gopalapatnam Mandal at 7.00 a.m. on 07.05.2020 to the Inspector of Police, Gopalapatnam to the effect that at about 3.30 a.m. on 07.05.2020 smoke came out of L.G.Polymers

Company affecting neighbouring villages. It also reported death of five persons and several injured, who were taken to hospitals. On the strength of this complaint, FIR Cr.No.213 of 2020 for offences under Sections 278 IPC, 284, IPC 285 IPC, 337 IPC, 338 IPC and 304-II I.P.C. was registered in Gopalapatnam P.S. Investigation in this matter is stated to be continuing.

4. In connection with this incident, all these petitioners, who are A1 to A12 were arrested on 07.07.2020 at different places and at different times. When they were produced before the Court of the learned Additional Chief Metropolitan Magistrate, Visakhapatnam, they were remanded to judicial custody.

5. These accused filed individual applications for bail in Crl.M.P.No.942 of 2020 (A1), Crl.M.P.No.948 of 2020 (A2) Crl.M.P.No.946 of 2020 (A3), Crl.M.P.No.941 of 2020 (A4), Crl.M.P.No.940 of 2020 (A5), Crl.M.P.No.944 of 2020 (A6), Crl.M.P.No.945 of 2020 (A7), Crl.M.P.No.947 of 2020 (A8), Crl.M.P.No.943 of 2020 (A9), Crl.M.P.No. 938 of 2020 (A10), Crl.M.P.No.937 of 2020 (A11) and Crl.M.P.No.939 of 2020 (A12) and the learned Metropolitan Sessions Judge-cum-I Additional District Judge, Visakhapatnam by separate orders dated 22.07.2020, dismissed all of them.

6. Hence these petitions for bail.

7. Sri Mukhul Rohatgi, learned Senior Counsel for A3 and A4, Sri Siddartha Luthra, learned Senior Counsel for A1, A2 and A5, Sri S. Niranjan Reddy, learned Senior Counsel for A6, A7 and A9, Sri Siddartha Agarwal, learned counsel for A8 and Sri Uma Maheswara Rao, learned counsel for A10 to A12, addressed arguments for grant of bail. While the

arguments are led by Sri Mukhul Rohatgi and Sri Siddartha Luthra, learned Senior Counsel, they are supplemented by Sri S. Niranjan Reddy, learned Senior Counsel, Sri Siddartha Agarwal and Sri Uma Maheswara Rao, learned counsel.

8. The learned Advocate General for the State and the learned Public Prosecutor for the respondent addressed arguments opposing these bail applications.

9. Now, the point for determination is- "*Whether the petitioners are entitled for bail and if there are such circumstances to extent this facility of bail?*"

**POINT:-**

10. L.G.Polymers Private Limited was established in the year 1967, registered in the name of 'Hindustan Polymers' under Factories Act for manufacturing Polystyrene and its co-polymers at Visakhapatnam. It was then belonging to M/s. Sri Rama Mills, which commenced its industrial activity, in the year 1961, of DCM Sriram group. It got merged with Mc Dowell & Co. Ltd., of UB group in the year 1978. It was taken over by L.G.Chemicals India under the umbrella of L.G.Chem (South Korea), renamed as L.G.Polymers India Private Limited (LGPI) in July, 1997. It is stated to be one of the leading manufactures of products in India, the range of which included General Purpose Polystyrene (GPPS), High Impact Polystyrene (HIPS), Expandable Polystyrene (EPS) and Engineering Plastics Compounds. The major raw materials used for this purpose are Styrene Monomer, Ethyl Benzene and Pentane.

11. The manufacturing process in this unit went on and the very nature of this manufacturing process involved use of hazardous material



like Styrene. It is stated to be highly inflammable, reactive and can auto-polymerise as a result of internal peroxide accumulation at higher degrees of temperature with explosive range 1.1. to 7%. Its auto ignition temperature is 490 degrees. This chemical causes severe eye, skin and respiratory irritation, CNS depression, Nausea, Vomiting etc. on short term exposure.

**12.** Activity of this Styrene compounds usually is controlled by use of inhibitors. They are Tertiary-butyl catechol(4-tert-butylcatechol (TBC), which is effective at low temperature. Normal Dodecyl Mercaptan (NDM) and Tertiary Dodecyl Mercaptan (TDM) are other usual inhibitors used. An inhibitor itself is a chemical that is added to another chemical to prevent an unwanted reaction like polymerisation, which may deactivate the free radical in a growing chain and acting as an antioxidant and prevent polymerisation by reacting with oxidation products in the monomer. However, there should be sufficient oxygen availability for the purpose of reaction of inhibitors. In the absence of oxygen, polymerisation will proceed as if there is no inhibitor present. Auto-polymerisation is a reaction without use of external heat, as a result of the addition of an activator and a catalyst. If the bulk Styrene temperature exceeds 60°C then polymerisation is self-sustaining and very rapid, evolving release of large quantities of heat together with volumetric expansion. These inputs are available in the Investigative Report submitted by the Director of Factories to the Government of A.P. with reference to the incident concerned.

**13.** The affected tank or storage facility in the L.G.Polymers Private Limited is known as 'M6 tank (Styrene Monomer Storage Tank)'. It is stated to be an old tank, which was originally constructed for storing

molasses, and later on was converted as a Styrene storage tank. Necessary approvals either of the plan of this tank or for converting this tank, as per the above stated report of the Director of Factories, was accorded by PESO (Petroleum and Explosive Safety Organisation), Chennai under Petroleum Act, Rules and Regulations thereunder.

**14.** The above report itself refers to usual manufacturing activity in this plant prior to the incident in normal course. It has been stated that prior to this incident, there were no similar incidents, either of this magnitude or less in this factory and an organised activity was going on for commercial production of the products without let or hindrance. This plant had to shut down on the intervening night of 24/25<sup>th</sup> March, 2020 on account of the lock down declared by the Government of India and the State Government due to Covid-19 pandemic. However, on account of the relaxation extended for resuming operations of all factories except those in containment zones w.e.f.. 04.05.2020, the management of this plant had proposed to re-start w.e.f. 07.05.2020. Efforts were made to make it ready and to comply with covid protocol. Except daily maintenance activities, no other activity was permitted during the lock-down period with 15 persons for each shift with a total 45 personnel working per day and it continued at normal level till 06.05.2020.

**15.** However, during early hours of 07.05.2020 at about 3.00 a.m., M6 Styrene storage tank with 1830 tones of Styrene started releasing the Styrene vapours due to auto-polymerisation from the top of the tank through vent and dip hatch and spread beyond the factory boundary affecting the nearby residential localities as stated above like Venkatapuram, Venkatadri Nagar, Nandamuri Nagar, Pydimamba Colony,

Kamparapalem, Padmanabha Nagar, Meghadripeta Colony, SC/BC Colony etc.

**16.** Sri Mukhul Rohatgi, learned Senior Counsel, referring to the performance and the history of this plant, contended that for the last 23 years it carried on its operations without blemish and it had to shut-down its activity due to the lock-down declared by the Governments and in spite of the letter by this Company to the District Administration on 23.03.2020 requesting permission to run operations with skeletal staff referring to nature of the activity in this industry, it was not allowed. Learned senior counsel further contended that nobody could foresee such a happening, which remained a sheer accident without any negligence or carelessness on the part of anyone including the personnel managing this factory. Further contending, the learned senior counsel, pointed out that for about two months from the date of the incident, the Managing Director and everyone concerned to this plant completely cooperated with the District Administration as well as the police at very stage during which period no arrest was effected. Pointing out that some of these accused had also deposited their passports, it is contended that after submission of the report by the High Power Committee, arrests were effected as a knee-jerk reaction by the state police.

**17.** The learned Senior Counsel Mukhul Rohatgi further referred to pendency of various matters either in this Court on account of a Writ Petition suomotu taken up or before Hon'ble Supreme Court or before the National Green Tribunal, New Delhi and that as per the directions of National Green Tribunal, the company had also deposited Rs.50 crores for the purpose of relief disbursement to the affected, which was not permitted to be disbursed by the Hon'ble Supreme Court without its leave.

The learned senior counsel further contended that the investigation has made substantial progress and that the plant is under sealed condition as per orders of a Division Bench of this Court dated 22.05.2020. It is further contended that no purpose would serve keeping these accused in jail and when the accident took place in a closed plant, the accused were, in fact, helpless and a simple cause, according to the learned Senior Counsel, has been blown out of proportion on account of inclusion of Section 304-II I.P.C. The learned senior counsel further contended that it is a case to attract an offence under Section 304-A I.P.C. and not otherwise, which is also clear from the manner in which investigating agency has sought to invoke other offences under Sections 337 IPC and 338 IPC. Thus contending that possibility of tampering with collection of evidence is too remote, the learned senior counsel requested release of A3 and A4 on bail, including upon imposing certain terms.

**18.** Continuing these submissions, Sri Siddartha Luthra, learned senior counsel, referring to the nature of the incident and the letter of this Company to the District Administration referred to above as well as permission accorded by virtue of G.O.Rt.No.209, Health, Medical & Family Welfare (b2) Department, dated 22.03.2020 whereby certain restrictions were imposed and further referring to the operational guidelines issued by Special Chief Secretary, Industries and Commerce Department by his letter dated 24.03.2020 whereby only 25 types of essential industries were exempt from lock down, it is contended that had the request of this company been accepted, there was possibility of averting this type of incident. Specific attention is drawn to the letter of L.G.Polymers dated 23.03.2020 addressed to the District Collector, Visakhapatnam, where it was pointed out that this company is a petro-chemical plant classified

under MAH category, with an activity of continuous polymerisation of Styrene monomer, operating on 24x7 basis under A,B,C & General shifts and storage of Styrene monomer imported from different destinations. Further reference is made to the request of this Company to the District Collector, Visakhapatnam requesting to permit to continue the plant operations in view of the nature of the industry. Thus, it is contended that every step was taken by the company including A1 as its Director (Operations) for proper management of the affairs of this Company.

**19.** Referring to attempt of this company to resume operations w.e.f. 07.05.2020, it is further contended by Sri Siddartha Luthra, learned senior counsel, that the incident cannot be attributed on account of any failure or inaction on the part of any of the accused. The learned senior counsel further contended that the entire case against these accused is based on circumstantial evidence and the version of the respondent itself is pointing out that a major part of investigation is already completed. Thus, it is contended that further detention of these accused is unwarranted. Elaborating further Sri Siddartha Luthra, learned senior counsel contended that the entire incident at best makes out an accident which is also the version in the reports given by High Power Committee appointed by the Government and also the Director of Factories, which may attract an offence under Section 304-A I.P.C. and certainly not an instance to make out application of 304-II I.P.C. Referring to other offences, which are bailable in nature, the learned Senior counsel contended that in these circumstances, request of the petitioners for bail be considered.

**20.** Sri S. Niranjan Reddy, learned senior counsel, in further elaboration, continuing the arguments of Sri Siddartha Luthra, referred to

the contents of the remand application filed before the Court of the learned jurisdictional Magistrate and contended that the investigating officer has relied on the conclusions drawn by the High Power Committee, which in fact make out a tortuous liability and possibly warranting a civil action and that it did not make out criminal culpability of the accused. The learned senior counsel Sri S. Niranjan Reddy, further contended that idle conditions were force upon due to lock-down guidelines resulting in the incident, which is at best an 'accident'. Further pointing out that the remand application is silent without there being an allegation that the accused did not cooperate with the investigation or interfere with the process of investigation for two months before their arrest, the learned senior counsel further contended that in the given facts and circumstances of the case, particularly having regard to the extent of investigation that went on till now, request of the petitioners for bail be considered.

**21.** The learned Senior counsel Sri S. Niranjan Reddy further contended that arrest of these petitioners was not effected on the date of the incident, in which event things would have been quite different and reiterating that no culpability as such could be imputed to these petitioners to have an intention or knowledge to commit such an offence under Section 304-II I.P.C., reference is made to the order of the learned Metropolitan Sessions Judge, Visakhapatnam, which expressed a doubt as to application of Section 304-II I.P.C. or Section 304-A I.P.C., contending that this doubt itself is a ground for grant of bail. Further reference is made as to time of arrest of these accused, pointing out that it was resorted to immediately after the submission of report by High Power Committee and that in the course of investigation it is contended that no attempt was made to have police custody either for the purpose

of interrogation or otherwise that clearly point out lack of seriousness on the part of the investigating agency. It is further contended by Sri S. Niranjan Reddy, learned Senior counsel, that this company has acted with great responsibility cooperating with all the committees at every stage including police and District Administration. On these grounds, a fervent request is made to grant bail to the accused.

**22.** Sri Uma Maheswara Rao, learned counsel, elaborating that the entire incident if taken at its face value reflected an alleged negligence, which is based, according to the prosecution, on two grounds viz., faulty design of the Tank-M6 and failure of Temperature Control Mechanism. Referring to the reports of High Power Committee as well as of Director of Factories, Sri Uma Maheswara Rao, pointed out that they are presenting contradictory stands and it cannot be stated that the staff, who were manning the plant, were not equipped properly and when attempt is made to invoke the provisions of the Factories Act, there was no need to have recourse to any of the penal provisions. The learned counsel Sri Uma Maheswara Rao further contended that as per the version of the respondent, till now 608 witnesses have been examined, which makes out that a substantial progress is made in the investigation and in such an event further detention of the accused in judicial custody is unnecessary.

**23.** Sri Siddartha Agarwal appearing for A8 contended that A8 is only a trainee in this unit, who is 21 years old, who was never called or interrogated by the police at any stage in this matter. Questioning arrest of A8 straight away, the learned counsel Sri Siddartha Agarwal contended that if the case of the prosecution is accepted in entirety, it is clear that it is based not only on circumstantial evidence but also expert's evidence, which is in the nature of an opinion. Sri Siddartha Agarwal, learned

counsel, further contended that these reports or opinions remained untested and that they are questionable. The learned counsel further contended that in the absence of any material clearly pointing out exact cause of the incident, the investigating agency cannot hold on to Section 304-II I.P.C. in as much as neither intention nor any motive could be culled out. Thus, a request is made to apply doctrine of 'Motivating Force' to the facts and circumstances of the case.

**24.** The learned Advocate General seriously opposed to these petitions attempting to substantiate the grounds and cause raised by the investigating agency against these accused. Copious reference is made to the outcome of the exercise by the High Power Committee and its report apart from the report of the Director of Factories. Elaborating further, the learned Advocate General contended that the acts complained of cannot be said to be outside the knowledge of the officers of the company, who failed to follow the guidelines of the Government issued time to time. The learned Advocate General further contended that this is not a case of mere rash and negligence and since the operations in this company depend on use of high-end technology, the lapses and short comings on various aspects including safety measures are clearly highlighted and pointed out by High Power Committee.

**25.** Referring to nature of activity went on in this unit, learned Advocate General further contended that the management though aware of the need to comply with the protocols relating to safety measures and consequences to follow in case of failure, allowed the matters to remain unattended. Further it is contended that as per the report of the High Power Committee this company did not have qualified engineers nor personnel and that such deficiencies have a close nexus to the incident. It



is further contended by the learned Advocate General that post-event response of the company and its personnel was not commensurate with the magnitude of the incident and that it clearly proved that this company was not prepared to meet any such contingency or eventuality. Thus referring to the root causes pointed out by the High Power Committee and Director of Factories in their respective reports, the learned Advocate General sought to support invocation of Section 304-II I.P.C. against these accused. Thus contending, the learned Advocate General requested to dismiss these petitions.

**26.** The learned State Public Prosecutor contended that the whole trouble started in December, 2019 when M6 tank was re-designed without obtaining appropriate permission or sanction from the competent authority viz., PESO. Referring to the observations in High Power Committee report that clearly pointed out want of safety measures, which reflected deliberate omission on the part of this Company, the learned State Public Prosecutor tried to impute to these accused that they had the knowledge as to outcome of such an incident if occurred that it would cause death or likelihood of causing death by their omission. The learned Public Prosecutor further contended that investigation is making progress and 120 more witnesses have to be examined including a few employees of L.G.Polymers and that in the event, the petitioners are granted bail, the investigation would be hampered, leading to likelihood of interfering with the process of investigation. Thus seriously opposing and supporting the stand of the investigating agency that Section 304-II I.P.C. is applicable, it is contended that having regard to the gravity and nature of the incident, the request of the petitioners be rejected.

**27.** Sri Siddartha Luthra, learned Senior Counsel, in reply referred to the report of Director of Factories pointing out that this report itself clearly observed that the personnel of this unit were highly qualified with sufficient experience. Further referring to the contention of the learned Public Prosecutor as to knowledge and intention, the learned Senior Counsel Sri Siddartha Luthra, contended that the very process of activity in this unit has certain facets of lurking danger, since it involves use of sensitive chemicals prone to quick reactions and responses and when the fulcrum on which the entire case of the prosecution is based itself is supporting the stand of the accused, the contention so advanced by the learned Public Prosecutor of knowledge or intention, has no basis to stand. Further referring to events narrated in the report of Director of Factories, either prior to the incident when normal activity in usual course was noticed in this unit or in the course of event, reactions of the concerned staff of this unit or post-event, the learned Senior Counsel contended that the contentions of the learned Advocate General or learned Public Prosecutor cannot stand in the way of granting bail. A reference is also made by Sri Siddartha Lurthu, learned senior counsel, as is contended by Sri Uma Maheswara Rao, learned Advocate, about extent of investigation as to examination of 608 witnesses so far in this matter.

**28.** Sri Siddartha Agarwal, learned counsel, in reply pointed out from the contents of the report of High Power Committee that the inhibitor viz., Tertiary-butyl catechol (4-tert-butylcatechol) (TBC) was a part of Styrene compound (chemical) used in this factory and it was not separately used for long. Further reference is made to the same report pointing out that the licence of this unit continued upto the year 2021 or 2024 and use of doctrine of 'Motivating Force' is reiterated.

29. In support of the contentions on behalf of the petitioners, the following rulings are relied on:

1. ***Dr. Shivinder Mohan Singh v. Directorate of Enforcement***<sup>1</sup>
2. ***P.Chidambaram v. Directorate of Enforcement***<sup>2</sup>
3. ***Jayendra Saraswathi Swamigal v. State of T.N.***<sup>3</sup>
4. ***Gaddam Appi Reddy vs. The State of Telangana***<sup>4</sup>
5. ***Javadu Raju and Ors. VS. The State of Telangana***<sup>5</sup>
6. ***Kaladindi Sanyasi Raju vs. State of Andhra Pradesh, rep. By Public Prosecutor, High Court of Andhra Pradesh, Hyderabad***<sup>6</sup>
7. ***Konduri Sribhar vs. The State of Andhra Pradesh***<sup>7</sup>
8. ***Sri Kancharla Sri HariBabu @ K. Babji v. The State of Telangana, through ACB-CIU, Hyderabad, rep. By its Public Prosecutor, High Court of the State of Telangana, Hyderabad***<sup>8</sup>
9. ***Joginder Kumar v. State of U.P. and others***<sup>9</sup>
10. ***Empress of India v. Idu Beg***<sup>10</sup>
11. ***Richhpal Singh Meena vs. Ghasi alias Ghisa and others***<sup>11</sup>
12. ***Kurban Hussein Mohamedalli Rangawalla v. State of Maharashtra***<sup>12</sup>
13. ***Ambalal D. Bhatt v. The State of Gujarat***<sup>13</sup>
14. ***Keshub Mahindra v. State of M.P.***<sup>14</sup>
15. ***Central Bureau of Investigation and others v. Keshub Mahindra and others***<sup>15</sup>
16. ***Abdul Kalam Musalman & Ors., v. State of Rajasthan***<sup>16</sup>

<sup>1</sup>. Bail Appl.1353/2020, dated 23.07.2020 (High Court of Delhi)

<sup>2</sup>. 2019 SCC OnLine SC 1549

<sup>3</sup>. (2005) 2 Supreme Court Cases 13

<sup>4</sup>. MANU/TL/0006/2020

<sup>5</sup>. MANU/TL/0231/2019

<sup>6</sup>. Crl.P.No.1932 of 2018, dated 18.03.2018

<sup>7</sup>. Criminal Petition No. 2458 of 2020, dated 15.07.2020

<sup>8</sup>. Criminal Petition No. 7108 of 2019, dt. 25.11.2019

<sup>9</sup>. (1994) 4 Supreme Court Cases 260

<sup>10</sup>. ILR Vol.III 776 (1881) (Allahabad Series)

<sup>11</sup>. (2014) 8 Supreme Court Cases 918

<sup>12</sup>. AIR 1965 SC 1616

<sup>13</sup>. (1972) 3 Supreme Court Cases 525

<sup>14</sup>. (1996) 6 Supreme Court Cases 129

<sup>15</sup>. (2011) 6 Supreme Court Cases 216

17. **Nitinchandra Somnath Raval v. State of Gujarat and others**<sup>17</sup>

18. **State of Gujarat v. Haidarali Kalubhai**<sup>18</sup>

30. Sri Siddartha Luthra, learned Senior Counsel laid emphasis on the parameters required to apply in grant of bail relying on **P. Chidambaram vs. Central Bureau of Investigation**<sup>19</sup> (1<sup>st</sup> Chidambaram case) & **Chidambaram vs. Directorate of Enforcement** (2<sup>nd</sup> Chidambaram case – 2<sup>nd</sup> referred to supra).

31. The principles relating to grant of bail are considered in **P.Chidambaram v. Central Bureau of Investigation** (1<sup>st</sup> Chidambaram case). After reviewing the law in this respect, in para-22 of this ruling, it is stated as under:

*"22. The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:- (i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; (ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; (iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; (iv) character behaviour and standing of the accused and the circumstances which are peculiar to the accused; (v) larger interest of the public or the State and similar other considerations (vide **Prahlad Singh Bhati v. NCT, Delhi (2001)4 SCC 280**). There is no hard and fast rule regarding grant or refusal to grant bail. Each case has to be considered on the facts and circumstances of each case and on its own merits. The discretion of the court has to be exercised judiciously and not in an arbitrary manner...."*

32. In **P. Chidambaram v. Directorate of Enforcement** (for short, 2<sup>nd</sup> Chidambaram case) (2 referred supra) after considering the law

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<sup>16</sup>. 2011 CrLJ 2507

<sup>17</sup>. (2019) 14 Supreme Court Cases 676

<sup>18</sup>. (1976) 1 Supreme Court Cases 889

<sup>19</sup>.2019 SCC OnLine SC 1380

in this respect including the observations referred above in 1<sup>st</sup> Chidambaram case, it is stated in para-23 as under-

*"23. Thus from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of "grave offence" and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied."*

**33.** Further reliance is placed by the learned Senior Counsel to **Jayendra Saraswathi Swamigal v. State of T.N.** (3 referred to supra) referring to the considerations required to apply in the same context. Para 16 of this ruling reads:

*"16. ....The considerations which normally weigh with the court in granting bail in non-bailable offences have been explained by this Court in **State v. Capt. Jhagjit Singh (AIR 1962 SC 253)** and **Gurcharan Singh v. State (Delhi Admn.) (AIR 1978 SC 179)** and basically they are – the nature and seriousness of the offence; the character of the evidence; circumstances which are peculiar to the accused; a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the State and other similar factors which may be relevant in the facts and circumstances of the case....."*

**34.** The law so laid down should be borne in mind to evaluate the material at this stage, particularly having regard to the scope and ambit of consideration in these petitions, being for bail.

**35.** The unfortunate incident occurred during wee hours of 07.05.2020. The effect of shut down of the plant for a considerable period, even at this stage, cannot be overlooked, particularly having regard to the sensitive nature of operations carried out therein. The very nature of this unit, based on chemical technology, as rightly contended by Sri Siddartha Luthra, learned senior counsel, makes out lurking threat or danger.

**36.** The report of the Director of Factories, though untested, when considered now, it did indicate that those responsible for maintenance of this plant during that night in between 6<sup>th</sup> and 7<sup>th</sup> May, 2020, acted in the manner expected. Some of them are the accused herein. This report further indicates that required alarms (sirens) were also alerted on account of leakage of vapours from M6 tank. Statements recorded, which are part of the report of the Director of Factories of those incharge of maintenance of that plant during that night, did indicate that on account of such sudden eruption, they were in a state of confusion and were overwhelmed. They were unable to comprehend what was going on by turn of events. Backdrop of this plant, without any instance of an incident involving as a whole or any part of this unit earlier of this nature or a lesser degree should have impacted the responses and reflections of those concerned, when this incident occurred and which was an unexpected event.

**37.** When considered against this backdrop, it is rather difficult to infer that those incharge of the plant during that night had ever an opportunity of knowing or having reason to believe as to impact of such happenings or the incident itself.

**38.** Letter dated 23.03.2020 of L.G.Polymers Private Limited referred by Sri Siddartha Luthra, learned senior counsel, is admitted by prosecution. It is also referred in the report of High Power Committee at Paga-63 under the head "Not an essential Industry, only minimum staff given permission". This letter indicates the anxiety expressed by this company in managing the hydrocarbons viz., the Styrene in store while requesting partial operation of the plant with skeletal staff. It was not accepted. High Power Committee, in its report tried to blame this company, without recording any reason why the District Collector concerned, did not take positive action upon such request of the Company nor seek instructions from his immediate superiors concerned considering the apprehension expressed therein. This report finds fault with the company, since it did not take up the matter with the higher authorities like the Commissioner of Industries, Principal Secretary, Industries Department, Government of Andhra Pradesh. According to this report, if this company felt the absolute necessity for continuing its operations during the lock-down period keeping the safety of factory into account in view of bulk storage of Styrene, it was for the company to approach the superiors. The committee also found that all the Styrene based plants around the world are being operated smoothly inspite of covid-10 lock-down in several countries. It should be noted that the District Collector, Visakhapatnam and the Commissioner of Police, Visakhapatnam are the members of this High Power Committee. A typical beaurocratic surge to blame the affected is seen in this approach.

**39.** Thus, it is also clear from the material placed by the prosecution that at possibly earliest point of time, the company had

brought to the notice of the District Administration, its difficulty in managing the bulk storage of Styrene in view of the lock-down directives.

40. It is a prima facie inference to draw, particular in order to assess the gravity of the instance. Mitigating factors referred to above do dent the gravity to certain extent.

41. Contentions advanced by Sri Mukhul Rohatgi and Sri Siddartha Luthra, learned Senior Counsel, to the effect that the incident involved, if at all the entire case of the prosecution is accepted at this stage, reflects only a rash or negligence act attracting Section 304-A I.P.C. and application of Section 304-II I.P.C. need not be called in. Contention is also advanced drawing similarity between this incident and Bhopal Gas Tragedy. A reference is made to ***Keshub Mahindra v. State of M.P*** (14 referred supra) where ultimately the offence attracted was held under Section 304-A I.P.C. and not under Section 304-II I.P.C. Curative petition filed in the same matter in ***Central Bureau of Investigation and others v. Keshub Mahindra and others*** (15 referred supra) is also pointed out by Sri Siddartha Luthra and its effect.

42. While pointing out the distinction between 304-II I.P.C. and Section 304-A I.P.C. strenuous contentions are advanced relying on the observations in ***Empress of India v. Idu Beg*** (10 referred supra), ***judgment dated 19.08.1881***. It is a judgment of a learned single Judge of Yore, in which the consideration was with reference to murder/Culpable Homicide not amounting to murder and causing death by rash and negligent act. Sri Siddartha Luthra, learned Senior Counsel, referred to certain observations in this decision, which in my considered view are relevant to understand the scope of Section 304-II IPC and



impact of 304-A I.P.C. It is desirable to extract these observations. (Observations so extracted are useful to everyone including those interested academically and also having regard to the fact that procuring a judgment of this age now-a-days is a difficult task.)

*".....The category of intentional acts of killing, or of acts of killing committed with the knowledge that death, or injury likely to cause death, will be the most probable result, or with the knowledge that death will be a likely result, is contained in the provisions of ss. 299 and 300 of the Penal Code. S. 304 creates no offence, but provides the punishment for culpable homicide not amounting to murder, and draws a distinction in the penalty to be inflicted, where, an intention to kill being present, the act, would have amounted to murder but for its having fallen within one of the Exceptions to s. 300, and those cases in which the crime is culpable homicide not amounting to murder, that is so say, where there is knowledge that death will be a likely result, but intention to kill, or to inflict bodily injury likely to cause death, or with knowledge that death must be the most probable result, are prima facie murder, while those committed with the knowledge that death will be a likely result are culpable homicide not amounting to murder. Now it is to be observed that s. 304 A is directed at offences outside the range of ss. 299 and 300, and obviously contemplates those cases into which neither intention nor knowledge of the kind already mentioned enters. For the rash or negligent act which is declared to be a crime is one "not amounting to culpable homicide", and it must therefore be taken that intentionally or knowingly inflicted violence directly and wilfully caused, is excluded. S. 304A does not say every unjustifiable or inexcusable act of killing nor herein before mentioned shall be punishable under the provisions of this section; but it specifically and in terms limits itself to those rash or negligent acts which cause death but fall short of culpable homicide of either description. According to English law, offences of this kind would come within the category of manslaughter, but the authors of our Penal Code appear to have thought it more convenient to give them a separate status in a section to themselves, with a narrower range of punishment proportioned to their culpability. It appears to me impossible to hold that cases of direct violence, wilfully inflicted, cannot be regarded as either rash or negligent acts. There may be in the act an absence of intention to kill, to cause such bodily injury as likely to cause death, or of knowledge that death will be the most probable result, or even of intention to cause grievous hurt or of knowledge that grievous hurt is likely to be caused. But the inference seems irresistible that hurt at the every least must be presumed to have been intended, or to have been known to be likely to be caused. If such intention or knowledge is present, it is a misapplication of terms to say that the act itself, which is the real test of the criminality, amounts to no more than rashness or negligence. In the present case the evidence is clear that the blow was wilfully and consciously given to the deceased woman by the accused, and he obviously therefore committed an assault at the very least. The consequences that resulted from it could not change a wilful and conscious act into a rash or negligent one, but their relevancy and importance, as indicating the amount of violence used, bore upon the question as to the character of the intention or knowledge to be presumed against the accused. Although I do not*

*pretend for a moment to exhaust the category of cases that fall within s. 304 A., I may remark that criminal rashness is hazarding a dangerous or wanton act with the knowledge that it is so, and that it may cause injury, but without intention to cause injury, or knowledge that it will probably be caused. The criminality lies in running the risk of doing such an act with recklessness or indifference as to the consequences. Criminal negligence is the gross and culpable neglect or failure to exercise that reasonable and proper care and precaution to guard against injury either to the public generally or to an individual in particular, which, having regard to all the circumstances out which the charge has arisen, it was imperative duty of the accused person to have adopted."*

43. It is an excellent exposition of law. Sri Siddartha Luthra, learned Senior Counsel, called it '*locus classicus*'.

44. In the same context, ***Richhpal Singh Meena vs. Ghasi alias Ghisa and others*** (11 referred supra) is relied on. In this ruling, while explaining the scheme of IPC and determination of appropriate offences, a five step inquiry to carry out by the Court is indicated in para-35 and it is as under:-

"35. ...., in our opinion, a five-step inquiry is necessary: (I) Is there a homicide? (ii) If yes, is it a culpable homicide or a "not-culpable homicide"? (iii) If it is a culpable homicide, is the offence one of culpable homicide amounting to murder (Section 304 IPC)? (iv) If it is a "not-culpable homicide" then a case under Section 304-A IPC is made out. (v) If it is not possible to identify the person who has committed the homicide, the provisions of Section 73 IPC may be invoked....."

45. Reliance is also placed by Sri Siddartha Luthra, learned Senior Counsel, in ***Kurban Hussein Mohamedalli Rangawalla v. State of Maharashtra*** (12 referred supra), ***Ambalal D. Bhatt v. The State of Gujarat*** (13 referred supra) and ***State of Gujarat v. Haidarali Kalubhai*** (18 referred supra), explaining the relative scope in application of section 304-II and Section 304-A I.P.C.

46. In this context, the learned Advocate General contended that the Court need not go into the nature of offence that gets attracted on facts either under Section 304-A I.P.C. or 304-II I.P.C. and determination

be with reference to grant of bail to the petitioners if they are entitled to, with reference to the offences for which FIR is registered.

47. The question of knowledge either with reference to last clause in Section 299 IPC and clause fourthly in Section 300 IPC is largely based on probable consequences of an alleged criminal act attributed against the accused and do not connote any intention at all.

48. The person responsible for reckless or rash or negligent act causing death of which he had knowledge or that such act would be dangerous enough to lead to some untoward thing, which is likely to cause death, as a consequence, are all questions of facts relating to fastening liability under Section 304-II IPC. Therefore, the questions relating to application of either Section 304-A IPC or Section 304-II IPC relate to two different and distinct spheres and Section 304-A I.P.C. excludes a culpable homicide.

49. Sri Siddarth Agarwal, learned counsel, laid emphasis upon test of 'motivating force' relying on ***Abdul Kalam Musalman & others vs. State of Rajasthan*** (16<sup>th</sup> referred to supra). In this ruling a learned Single Judge of Rajasthan High Court (Jaipur Bench), referring to ***Mahadev Prasad Kaushik vs. State of UP ((2008) 14 SCC 479= AIR 2009 SC 125)***, in given facts, observed in para-17 as under:

*"17. In the case of Mahadev Prasad Kaushik (Supra) , the Hon'ble Supreme Court has laid down the test of "motivating force". Therefore, this Court is required to see what was the "motivating force" in the mind of the accused persons when death of the five labourers was caused? According to the prosecution, the petitioners were carrying out illegal mining. Therefore, their intention was to carrying out the illegal mining of the place. Obviously, "the motivating force" was to extract minerals from the earth. The motivating force was not to cause death of the five labourers. Since their intention was carrying out of illegal mining, and howsoever unlawful, it may be to do so, it was certainly not their intention to cause the death of the unfortunate victims. Therefore, their acts falls*

*within the ambit of Illustration "c" of Section 299 IPC. Hence, their act is covered by Section 304A and not by Section 304 IPC."*

**50.** These questions need not be dilated at this stage, as rightly contended by the learned Advocate General. Observations of learned Metropolitan Sessions Judge, Visakhapatnam, in this context cannot be deemed improper.

**51.** Except Section 304-II I.P.C., other offences complained of against all these accused are bailable. Whether these offences and Section 304-II I.P.C. could go together or not is again a question not open for consideration at this stage in these petitions. All these questions mainly based on disputed facts relate to realm of trial.

**52.** Sri Siddartha Luthra, learned Senior Counsel, brought to the notice of this Court the medical condition of A3. Referring to medical certificate issued by Chonnam National University Hwasum Hospital, Seoyang-ro, Hwasun-eup, Hwasun-gun, Jeollanam-do, South Korea contending that A3 has history of treatment for stomach cancer stated to be in the early stages and that it was diagnosed during the year 2014. On such ground, request is made to consider granting bail to him. The learned Advocate General fairly stated that in the light of medical condition of A3, the Court could take an appropriate measure. The medical certificate of A3, particularly in the context of the present covid-19 situation, as pointed out by Sri Siddartha Luthra, learned Senior Counsel, is suggestive of immunocompromising situation. Therefore, it is a ground to consider in the matter.

**53.** As pointed out by Sri Uma Maheswara Rao, learned counsel, substantial part of investigation apparently is completed. 604 witnesses

have been examined so far. When it is compared with the number suggested by the learned Public Prosecutor viz., 120 witnesses further to examine, the progress made in the course of investigation is a measure of appreciation.

**54.** As contended by all the learned senior counsel as well as learned counsel, till the date of arrest of these accused from the date of the incident for nearly two months, it is not the complaint of the respondent that they, in any manner interfered with the process of investigation or attempted to meddle. On the other hand, the reports of the High Power Committee and that of the Director of Factories, which are made available by the learned Public Prosecutor for consideration of this Court in these matters, suggest that all these accused were very much available and that they all cooperated with the authorities concerned, who were involved in these exercises. In this background, it is unlikely that these accused would interfere with the process of investigation any more or stall its progress. It is also unlikely that they would prevent any of the witnesses from responding to the call of investigating officers. The situation and apprehension of the accused basing on the effect of covid-19 pandemic pointed out are also matters of reckoning in this context.

**55.** A1 is the Director (Operations), A2 is the HOD, Styrene Monomer Handling Unit, A3 is the Managing Director-cum-CEO, A4 is the Technical Advisor, A5 is the General Manager, Production, A6 is the Engineer, SMH Operations, A7 is the Engineer in SMH Operations, A8 is the Operator of SMH Operations, A9 is the Production Manager, A10 is the Chemical Engineer & in-charge GPPS (General Purpose PolyStyrene), A11 is the operator in GPPS Plant Control Room and A12 is the Safety Officer for the L.P.Polymers Company, respectively. The family circumstances

relating to these accused and that they did not have any criminal antecedents are also pointed out by their learned counsel in the course of arguments. They held different positions in this company as described in the remand report referred to above. Therefore, it is unlikely that they would flee away from the process of justice nor make themselves scarce.

**56.** The incident did have enormous impact and is of great magnitude. It is grave. Yet, there are circumstances, in favour of the accused to mitigate, referred to supra, which tend to dilute the gravity of the instance in relation to their role if, as a whole responsible. Certain externally forced events like long shut down of the plant due to lock down and the effort of the company to air its apprehension of lurking danger due to bulk storage of Styrene monomer in its tanks to the authorities concerned in vain, stand to consider in this respect. Prima facie consideration of the material at this stage, impels to draw these inferences. The above factors positively stand in favour of the accused. In the above circumstances, if the request of the accused for bail is considered, it is unlikely that the investigation would suffer or get stalled. Among the accused A1, A3, A4 and A5 have already surrendered their passports to the Assistant Commissioner of Police, Dwaraka Sub Division, Visakhapatnam City.

**57.** In the above circumstances, the request of the petitioners for bail has to be accepted. However, it is subject to certain conditions.

**88. (i) Crl.P.No.2885 of 2020**

In the result, A1 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties for like sum each to the satisfaction of the Court of the learned II Additional Chief

Metropolitan Magistrate, Visakhapatnam subject to the following conditions:

1. A1 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders. In case of any imminent necessity and for exceptional reasons, if he has to leave Visakhapatnam, he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam shall pass an appropriate order on merits.
2. A1 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A1 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. Since A1 has already deposited passport with the respondent police, it should be retained.
5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates from the appropriate Government Authorities. However, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A1 to produce solvency certificates relating to immovable properties by the sureties

after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

(ii) **Crl.P.No.2884 of 2020**

In the result, A2 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties for like sum each to the satisfaction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam subject to the following conditions:

1. A2 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders. In case of any imminent necessity and for exceptional reasons to leave Visakhapatnam, he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam shall pass an appropriate order on merits.
2. A2 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A2 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. A2 is directed to surrender his passport to the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam. If he did not have passport, he shall file an affidavit to the same effect before the above Court, which the said Court shall consider.



5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates from the appropriate Government Authorities. However, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A2 to produce solvency certificates relating to immovable properties by the sureties after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

(iii) **Crl.P.No.2837 of 2020**

In the result, A3 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties, one of whom shall be a local surety, for like sum each to the satisfaction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, subject to the following conditions:

1. A3 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders. In case of any imminent necessity and for exceptional reasons, if he has to leave Visakhapatnam, he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam shall pass an appropriate order on merits.

2. A3 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A3 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. Since A3 has already deposited passport with the respondent police, it should be retained.
5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates from the appropriate Government Authorities. However, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A3 to produce solvency certificates relating to immovable properties by the sureties after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

(iv) **Crl.P.No.2844 of 2020**

In the result, A4 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties, one of whom shall be a local surety, for like sum each to the satisfaction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam subject to the following conditions:

1. A4 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders.

In case of any imminent necessity and for exceptional reasons, if he has to leave Visakhapatnam , he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam shall pass an appropriate order on merits.

2. A4 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A4 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. Since A4 has already deposited passport with the respondent police, it should be retained.
5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates from the appropriate Government Authorities. However, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A4 to produce solvency certificates relating to immovable properties by the sureties after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

(v) **Crl.P.No.2838 of 2020**

In the result, A5 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties for like sum each to the satisfaction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam subject to the following conditions:

1. A5 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders. In case of any imminent necessity and for exceptional reasons, if he has to leave Visakhapatnam, he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam shall pass an appropriate order on merits.
2. A5 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A5 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. Since A5 has already deposited passport with the respondent police, it should be retained.
5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates

from the appropriate Government Authorities. However, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A5 to produce solvency certificates relating to immovable properties by the sureties after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

(vi) **Crl.P.No.2842 of 2020**

In the result, A6 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties for like sum each to the satisfaction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam subject to the following conditions:

1. A6 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders. In case of any imminent necessity and for exceptional reasons, if he has to leave Visakhapatnam, he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam shall pass an appropriate order on merits.
2. A6 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A6 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. A6 is directed to surrender his passport to the Court of the learned II Additional Chief Metropolitan Magistrate,

Visakhapatnam. If he did not have passport, he shall file an affidavit to the same effect before the above Court, which the said Court shall consider.

5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates from the appropriate Government Authorities. However, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A6 to produce solvency certificates relating to immovable properties by the sureties after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

(vii) **Crl.P.No.2843 of 2020**

In the result, A7 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties for like sum each to the satisfaction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam subject to the following conditions:

1. A7 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders. In case of any imminent necessity and for exceptional reasons, if he has to leave Visakhapatnam, he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan

Magistrate, Visakhapatnam shall pass an appropriate order on merits.

2. A7 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A7 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. A7 is directed to surrender his passport to the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam. If he did not have passport, he shall file an affidavit to the same effect before the above Court, which the said Court shall consider.
5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates from the appropriate Government Authorities. However, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A7 to produce solvency certificates relating to immovable properties by the sureties after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

(viii) **Crl.P.No.2882 of 2020**

In the result, A8 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties for like sum each to the satisfaction of the Court of the learned II Additional Chief

Metropolitan Magistrate, Visakhapatnam subject to the following conditions:

1. A8 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders. In case of any imminent necessity and for exceptional reasons, if he has to leave Visakhapatnam, he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam shall pass an appropriate order on merits.
2. A8 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A8 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. A8 is directed to surrender his passport to the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam. If he did not have passport, he shall file an affidavit to the same effect before the above Court, which the said Court shall consider.
5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates from the appropriate Government Authorities. However, the



learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A8 to produce solvency certificates relating to immovable properties by the sureties after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

(ix) **Crl.P.No.2841 of 2020**

In the result, A9 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties for like sum each to the satisfaction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam subject to the following conditions:

1. A9 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders. In case of any imminent necessity and for exceptional reasons, if he has to leave Visakhapatnam, he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam shall pass an appropriate order on merits.
2. A9 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A9 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. A9 is directed to surrender his passport to the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam. If he did not have passport, he shall file an

affidavit to the same effect before the above Court, which the said Court shall consider.

5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates from the appropriate Government Authorities. However, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A9 to produce solvency certificates relating to immovable properties by the sureties after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

(x) **Crl.P.No.2845 of 2020**

In the result, A10 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties for like sum each to the satisfaction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam subject to the following conditions:

1. A10 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders. In case of any imminent necessity and for exceptional reasons, if he has to leave Visakhapatnam, he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan

Magistrate, Visakhapatnam shall pass an appropriate order on merits.

2. A10 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A10 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. A10 is directed to surrender his passport to the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam. If he did not have passport, he shall file an affidavit to the same effect before the above Court, which the said Court shall consider.
5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates from the appropriate Government Authorities. However, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A10 to produce solvency certificates relating to immovable properties by the sureties after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

(xi) **Crl.P.No.2881 of 2020**

In the result, A11 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties for like sum each to the satisfaction of the Court of the learned II Additional Chief

Metropolitan Magistrate, Visakhapatnam subject to the following conditions:

1. A11 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders. In case of any imminent necessity and for exceptional reasons, if he has to leave Visakhapatnam, he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam shall pass an appropriate order on merits.
2. A11 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A11 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. A11 is directed to surrender his passport to the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam. If he did not have passport, he shall file an affidavit to the same effect before the above Court, which the said Court shall consider.
5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates from the appropriate Government Authorities. However, the

learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A11 to produce solvency certificates relating to immovable properties by the sureties after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

(xii) **Crl.P.No.2883 of 2020**

In the result, A12 is ordered to be enlarged on bail on his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties for like sum each to the satisfaction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam subject to the following conditions:

1. A12 shall remain at Visakhapatnam and shall not leave the jurisdiction of the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam, until further orders. In case of any imminent necessity and for exceptional reasons, if he has to leave Visakhapatnam, he shall make an application to the above Court at least three days before the date of departure from Visakhapatnam after serving notice on the respondent police and upon consideration of such application, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam shall pass an appropriate order on merits.
2. A12 shall appear before S.H.O., Gopalapatnam P.S., once in between 10.00 a.m. and 12.00 noon every Monday until further orders.
3. A12 shall furnish his residential address, contact land-line as well as mobile phone numbers including fax number, e-mail address to the respondent police.
4. A12 is directed to surrender his passport to the Court of the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam. If he did not have passport, he shall file an

affidavit to the same effect before the above Court, which the said Court shall consider.

5. Liberty is given to the sureties to produce Fixed Deposit Receipts of any Nationalised bank towards surety amount stated above along with their affidavits as well as identity proofs. The learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to accept the same subject to testing sufficiency of solvencies thereon. This facility is permitted considering the present covid-19 situation, since the parties may find it difficult to secure solvency certificates from the appropriate Government Authorities. However, the learned II Additional Chief Metropolitan Magistrate, Visakhapatnam is at liberty to direct A12 to produce solvency certificates relating to immovable properties by the sureties after this covid-19 situation abates, issuing appropriate notice and giving sufficient time for production of these solvency certificates.

//TRUE COPY//

Sd/- E. KAMESWARA RAO  
ASSISTANT REGISTRAR

  
For ASSISTANT REGISTRAR

To

1. The II Additional Chief Metropolitan Magistrate, Visakhapatnam
2. The Station House Officer Gopalapatnam Police Station, Visakhapatnam
3. Two CC to Public Prosecutor, High Court of A.P. at Amaravathi (OUT)
4. One CC to Sri D. Narendar Naik Advocate (OPUC)
5. One CC to Sri Doddala Yathindra Dev (OPHC)
6. One CC to Sri Vikram Chandra Puttapaga Advocate (OPUC)
7. One CC to Mukhul Rohatgi, Senior Counsel, (OPUC)
8. Two CC to Advocate General, High Court of A.P at Amaravati (OUT)
9. One spare copies.

Tvr

**HIGH COURT**

**MVRJ**

**DATED:04/08/2020**

**ORDER**

**CRIMINAL PETITION NO: 2885, 2884, 2837, 2844, 2838, 2842,  
2843, 2882, 2841, 2845, 2881 and 2883 OF 2020**

**BAIL ORDER**

