

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.4946 of 2017

ORDER:

A request is made in the present petition to grant regular bail, under Sections 437 & 439 of the Code of Civil Procedure, 1973, by the petitioner herein, who is arraigned as Accused No.1 in Cr.No.111 of 2017 on the file of the P.S., Ramgopalpet, Hyderabad, registered for the offences punishable under Section 304-B read with 34 of the Indian Penal Code, along with his mother, who is Accused No.2.

According to the prosecution, Accused No.2 is yet to be arrested.

Heard Sri Rajender Khanna, learned counsel for the petitioner and the learned Additional Public Prosecutor for the State of Telangana.

Various submissions have been made by the learned counsel for the petitioner, touching the lapses on the part of the investigating agency, such as, the investigating agency was not clear to comprehend that there was no marriage between the deceased and the petitioner, that even if there was marriage, when the certificate issued by the S.S.C. Board would show the date of birth of the deceased as 03.08.1997 and since the marriage had taken place on 26.06.2015, she was less than 18 years of age, and, therefore, the marriage itself is not valid in the eye of law.

These are questions which require examination not at this stage, in an application for grant of bail, but during trial if the case reaches filing of charge by the investigating agency.

The submission made by the learned counsel for the petitioner is that the investigating agency had to invariably register the offence under Section 174 Cr.P.C., initially, issue FIR under Section 174 Cr.P.C., and having made

investigation and having been satisfied, only then, ought to have brought the case under the ambit of Section 304-B read with 34 IPC. Thus, there has been flaw in the functioning of the investigating agency.

When perused the record, it reveals that the complaint itself was lodged by the father of the deceased, as the deceased jumped from the second floor while she was at her parents' house and certain allegations have been mentioned in the complaint, pointing towards harassment meted out by Accused Nos.1 and 2, leading to the deceased jumping from the second floor. Certainly, it cannot be said the Station House Officer is obligated with the duty to register the crime initially under Section 174 Cr.P.C. Only when a doubt exists in the mind of the Station House Officer, at the time of registration of FIR, as to the cause of death, the provisions of Section 174 Cr.P.C., would be invariably mentioned. Thus, there is no merit in the submission of the learned counsel for the petitioner. It is no doubt true that the petitioner was arrested on 22.04.2017 and he was unsuccessful before the court below, as his request was rejected, but when examined in the light of the complainant allegations and the offences leveled against the petitioner and, more particularly, when Accused No.2 yet to be arrested, as she is evading arrest according to the prosecution, it is not a fit case to grant regular bail at this stage. Though learned counsel for the petitioner relied on the decisions rendered by the Hon'ble Supreme Court in **Ram Govind Upadhyay Vs. Sudarshan Singh & Ors.**¹, **Babubhai Vs. State of Gujarat & Ors.**² and **Sanjay Chandra Vs. CBI**³, however, the principles laid down

¹ 2002 [3] SCC 598

² (2011) 1 SCC (Cri.) 336

³ (2012) 1 SCC 40

therein for grant of bail are not applicable to the present case as the fact situation differs.

Hence, the criminal petition is dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

A. SHANKAR NARAYANA, J

July 3, 2017
MRR

