

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3762 OF 2017

ORDER:

The present Criminal Petition is filed under Section 438 of the Criminal Procedure Code, 1973 (for short, 'the Code') requesting to grant the anticipatory bail to the petitioner.

2. The petitioner is the sole accused, who is alleged to have committed the offences punishable under Section 306 of I.P.C.

3. Heard Sri P. Rajesh Babu, the learned counsel for the petitioner and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

4. The learned counsel for the petitioner pleads innocence and false implication of the petitioner. It is according to the learned counsel that there has been no allegations worth the name to connect the petitioner with his complicity in the commission of the attempt to commit suicide by the deceased. The learned counsel would submit that the complaint lodged by the wife of the deceased does not show any agreement of sale being executed by the petitioner in favour of the deceased and the alleged suicide note now placed for perusal of the Court is created for the purpose of the present case, and, therefore, sought to grant anticipatory bail.

5. The learned Assistant Public Prosecutor would submit that the allegations in the compliant would clearly point out the complicity of the petitioner and on account of the attitude of the petitioner the deceased was driven to commit suicide and it is not a case where anticipatory bail can be granted.

6. For assessing whether the petitioner is entitled to anticipatory bail, the allegations mentioned in the complaint require advertence.

7. The deceased was cultivating ten acres of land for the last two years prior to lease which land belonged to the petitioner. The petitioner herein agreed to sell Ac.4-65½ cents to the deceased at the rate of Rs.10,00,000/- per acre and even received Rs.7,86,000/- and Rs.6,22,000/- by way of cheques and Rs.6,00,000/- by way of cash. The deceased, earlier borrowed Rs.1,00,000/- to invest on the said land. At the time of that transaction, the petitioner herein obtained blank promissory notes and blank cheques and the title deed of their house towards security. Thereafter, the deceased discharged the said debt, but the petitioner did not return those documents. Later, when the deceased demanded him to execute an agreement, the petitioner alleged to have threatened him that he cannot do anything as the blank promissory notes and blank cheques and the title deed of the house of the deceased were in his custody. The deceased, despite, repeatedly requesting him to return them, on 3.7.2015 at about 10.00 p.m. the petitioner came to their house and uttered that the deceased was

bringing disrespect to his status in the society and unless he dies there won't be solution to the issue. On 4.7.2015 morning when the deceased went to the house of the petitioner, he was not available and the deceased returned and at 12.00 noon, the petitioner came to their house and again abused him in filthy language that the deceased was defaming his name, on account of which the deceased having got mentally upset at about 1.30 p.m. in the fields consumed pesticides and committed suicide. Later, the petitioner visited their house and sought excuse and assuring that he would settle the issue and not to send him to jail. The complainant also alleged that on 20.8.2015 in the telephone diary maintained by her husband she found a suicide note. Therefore, there was delay in lodging the complaint with the police.

8. It is true in the complaint she referred to that the deceased asked the petitioner to execute an agreement of sale, and basing on that averment the learned counsel, in vehemence, would submit that when no agreement at all was executed the question of agreeing to sell the land and the deceased demanding the petitioner to execute the sale deed would not arise and that itself would expose falsity in the allegations levelled against the petitioner. He has also pointed out that the *de facto* complainant filed a petition under Andhra Pradesh (Andhra Area) Tenancy Act, 1956 to declare her as cultivating tenant and also sought injunction and costs. In the A.T.C. pleadings, she alleged that the petitioner executed an agreement of

sale on 19.6.2015 and thus, there are inconsistent versions placed by the *de facto* complainant. However, the sale agreement, dated 19.6.2015, is finding place in the list of documents annexed to the said petition in A.T.C. No.11 of 2015 on the file of Principal Junior Civil Judge, Tadepalligudem. It is true, she referred to the fact that the deceased was requesting the petitioner to execute an agreement, but it cannot be said, at this stage, that the agreement of sale referred to in A.T.C. No.11 of 2015 is a fabricated document and so also the suicide note unless they are subjected to test as per evidentiary rule.

9. A copy of the suicide note is placed for perusal by the learned Assistant Public Prosecutor. The fact that the petitioner received Rs.7,86,000/- and Rs.6,22,000/- cheques through State Bank of India, Kothapeta Branch stand on record even at this stage which may substantiate the allegation that there was sale transaction between the petitioner and the deceased and even the fact that blank promissory notes and blank cheques were taken along with title deed from the house of the deceased and retaining them without returning and also visiting the house of the deceased and threatening him are all the circumstances, which disfavour the petitioner even at this stage to entitle him for the exceptional relief of anticipatory bail.

10. Further, it cannot also be ruled out that the petitioner would interfere with investigation and apprehension that he would tamper collection of evidences cannot be sidelined as the very fact though the incident took place in 2015, the petitioner approaching this

Court in 2017 by filing petition for grant of anticipatory bail would speak about it. It is no doubt true he made an attempt for getting such relief before the II-Additional District & Sessions Judge, Amalapuram, in Criminal M.P. No.383 of 2017 in Crime No.156 of 2015 of Kothapeta P.S., but it was dismissed by order dated 4.5.2017.

11. Therefore, the Criminal Petition is dismissed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition shall stand closed.

Dt. 07.07.2017
gbs

A. SHANKAR NARAYANA, J

