

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5995 of 2017

ORDER:

This petition is filed by the petitioner-accused No.4, under Section 438 Cr.P.C., seeking anticipatory bail in Crime No.91 of 2017 on the file of the Station House Officer, Proddatur III Town Police Station, YSR Kadapa District, registered for the offences punishable under Sections 306 and 506 read with 34 of IPC.

2. The learned counsel for the petitioner strenuously submitted that there is a delay of seven hours in lodging the complaint; therefore, the possibility of falsely implicating the petitioner cannot be ruled out completely. He further submitted that even if the allegations made in the complaint are *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioner for the offences punishable under Sections 306 and 506 read with 34 of IPC. He further submitted that in order to bring pressure on accused Nos.1 to 3, the petitioner was falsely implicated though he is not a party to the alleged agreement of sale dated 13.1.2011. *Per contra*, learned counsel for the second respondent-*de facto* complainant submitted that it is not a fit case to grant bail to the petitioner in view of the contents of suicide note. The learned Additional Public Prosecutor representing the State submitted that the allegations made in the complaint *ex facie* constitute the offences alleged to have been committed by the petitioner. He further submitted that in view of pendency of investigation, this is not a fit case to grant pre arrest bail to the petitioner.

3. The case of the prosecution is that one Bhumireddy Adinarayana Reddy (hereinafter referred to as, the deceased) entered into an agreement of sale on 13.1.2011 with the petitioner and other accused to purchase an extent of Acs.0.30 cents and paid entire sale consideration of Rs.35,25,000/-. The further case is that for the last six years, the petitioner and other accused have been postponing execution of the sale deed in favour of the deceased, on one pretext or the other. The further case is that due to the harassment of the petitioner and other accused, the deceased committed suicide on 01.7.2017 hanging to the fan.

4. The petitioner filed CrI.M.P.No.1273 of 2017 on the file of the Court of II Additional Sessions Judge, Kadapa at Proddatur, under Section 438 of Cr.P.C., and the same was dismissed on 12.7.2017.

5. As rightly pointed out by the learned counsel for the petitioner, the deceased committed suicide at about 06.40 am whereas the complaint was lodged by the wife of the deceased at about 01.00 pm on 01.7.2017. It is needless to say that when a wife came to know about sudden death of her husband, she may be in shock for some time. Therefore, mere delay in lodging the complaint itself is not a valid ground to discard the entire prosecution version without taking into consideration the other attending circumstances. The delay in lodging the complaint may be one of the grounds to suspect the version put-forth by the prosecution that too after full-fledged trial.

6. A perusal of the record reveals that the agreement of sale dated 13.1.2011 contains the name of the petitioner. It is not the case of the petitioner that he is not having any right in the

property covered under the agreement of sale. In the complaint itself, the name of the petitioner is mentioned.

7. In order to appreciate the contention of learned counsel for the petitioner, this Court carefully perused the alleged suicide note of the deceased. In the suicide note, the deceased has given minute details of the agreement of sale and the trauma undergone by him due to the financial problems caused by the alleged acts of the petitioner and other accused. A perusal of the complaint and the suicide note *prima facie* reveals the role played by the petitioner in commission of the offence.

8. The learned counsel for the petitioner submitted that accused Nos.1 to 3 were arrested and released on bail. Mere release of accused Nos.1 to 3 on regular bail itself would not automatically create any right in favour of the petitioner for grant of pre arrest bail.

9. Taking into consideration the allegations made in the complaint, the contents of suicide note of the deceased and the stage of investigation, this Court is of the considered view that it is not a fit case to grant pre arrest bail to the petitioner.

10. Accordingly, the criminal petition is dismissed.

T.SUNIL CHOWDARY, J

September 19, 2017
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