

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6877 of 2017

ORDER:

This criminal petition is filed by the petitioner-accused No.4, under Section 438 Cr.P.C., seeking pre-arrest bail in Crime No.142 of 2017 on the file of the Station House Officer, Mangalagiri Town Police Station, Guntur District, registered for the offence punishable under Sections 498-A and 306 IPC.

2. The learned counsel for the petitioner submitted that the Court has to consider the validity of the dying declaration at the time of trial only. He further submitted that the petitioner is not the family member of the victim, therefore, he is entitled for pre-arrest bail. *Per contra*, the learned Additional Public Prosecutor representing the State submitted that the name of the petitioner is mentioned in the statement of the deceased recorded under Section 161 Cr.P.C. and dying declaration of the deceased, therefore, it is not a fit case to grant pre-arrest bail to the petitioner.

3. The case of the prosecution is that the petitioner along with the other accused compelled the deceased to give divorce to A1 by taking an amount of Rs.17,000/-, for which, she refused. It is the further case of the petitioner that Accused Nos.1 to 3(father, mother and husband of the deceased) came to the house of the deceased and forcibly taken away her son due to which she committed suicide.

4. The petitioner filed CrI.M.P.No.1560 of 2017 on the file of the III Additional Sessions Judge, Guntur under Section 438 Cr.P.C. and the same was dismissed on 26.07.2017. As rightly pointed out by the learned counsel for the petitioner, the Court has to consider *prima facie* case while disposing the petition filed under Section 438 Cr.P.C. While deciding a petition filed under Section 438 Cr.P.C., the Court shall not lost sight of the recitals of the dying declaration of the deceased. It is needless to say that the Court shall not express any opinion touching the merits of the main case while deciding the bail applications. This Court carefully perused the FIR, 161 Cr.P.C. statement of the deceased as well as the dying declaration of the deceased. A perusal of the record *prima facie* reveals the role played by the petitioner in the commission of offence.

5. Taking into consideration the gravity of the offence alleged to have been committed by the petitioner 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.

6. In the result, the criminal petition is dismissed.

T.SUNIL CHOWDARY, J

7th September, 2017

Rns