

THE HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.6932 of 2019

ORDER:

This criminal petition is filed under Section 439 (2) Cr.P.C. seeking cancellation of bail granted to respondent No.2/A1 in Crime No.234 of 2019 of Kachiguda Police Station, Hyderabad, registered for the offence under Section 304-B IPC, vide order dated 22.10.2019 in CrI.M.P.No.3701 of 2019 on the file of the II Additional Metropolitan Sessions Judge, Hyderabad.

2. The case of the prosecution is that the marriage of the daughter of the de-facto complainant was performed with A1 on 01.07.2018 and they gave a sum of Rs.18,00,000/- towards dowry to A1. After one month of their marriage, A1 along with A2 to A5 used to harass his daughter mentally and physically by demanding additional dowry of Rs.2,00,000/-, due to which, his daughter came to his house in the month of July and residing in his house since two months and informed about the harassment made by the accused for additional dowry. On 08.09.2019, A1 to A5 came to the house of the de-facto complainant and quarreled with his daughter and left from home, and thereafter, his daughter went into depression and committed suicide by pouring kerosene and setting fire to herself on 10.09.2019 because of the harassment made by A1

to A5. Based on the said report, a case in Crime No.234 of 2019 was registered by the Police, Kachiguda, for the offence punishable under Section 304-B IPC. A1 was arrested on 12.09.2019 and remanded to judicial custody. Subsequently, A1 filed two bail applications before the Court below and the same were dismissed and again, he filed Crl.M.P.No.3701 of 2019 seeking to grant bail. After considering the material on record, the Court below granted bail to A1 vide order impugned. Aggrieved by the same, the present criminal petition is filed by the petitioner-de-facto complainant.

3. Though respondent No.2/A1 appeared through his counsel, no counter-affidavit is filed.

4. Learned counsel for the petitioner-de-facto complainant mainly submits that the Court below ought to have seen that there are specific overt acts against A1 to A5 in harassing the deceased and her family members for additional dowry. He submits that the Court below has wrongly exercised its discretion and granted bail to A1 without considering the nature and gravity of accusation made against him. He further submits that the accused are sending people to the house of the de-facto complainant and threatening to withdraw the complaint. Thus, he prays to cancel the bail granted to A1.

5. On the other hand, learned counsel for respondent No.2/A1 contends that there is no material to show that A1 has threatened the prosecution witnesses. He further submits that while granting bail, the trial Court observed that material witnesses were examined and the investigation is almost completed and as such the impugned order cannot be interfered with.

6. In ***Dolat Ram & Ors. vs. State of Haryana***¹ the Apex Court held that “One such ground for cancellation of bail would be where ignoring material and evidence on record a perverse order granting bail is passed in a heinous crime of this nature and that too without giving any reasons. Such an order would be against principles of law. Interest of justice would also require that such a perverse order be set aside and bail be cancelled.”

7. In the instant case, a perusal of the record would show that the marriage of the deceased with respondent No.2/A-1 was occurred on 01.07.2018 and the deceased committed suicide on 10.09.2019. Thus, within one year two months after the marriage, the deceased died under un-natural circumstances and that there are allegations even in the written complaint that the deceased was subjected to cruelty. There are specific allegation that just two days prior to the death of the

¹ (1995) 1 SCC 349

deceased i.e., on 08.09.2019 all the accused went to the house of the complainant, quarreled with the deceased and abused her and left the house stating that there is no relation with her from now onwards and since then the deceased went into depression and on 10.09.2019 she herself poured kerosene, set ablaze and committed suicide. The learned Sessions Judge while rejecting the second bail application on 10.10.2019 observed that there is *prima facie* case against respondent No.2/A-1, but in the third bail application, which was allowed within twelve days of the rejection of the second bail application, it was observed that in the changed circumstances, further judicial custody of respondent No.2/A-1 appears to be not necessary, in my view, the same is not a ground to allow the bail application. Thus, it is clear that the learned II Additional Metropolitan Sessions Judge, Hyderabad, enlarged respondent No.2/A-1 on bail without giving any reasons and without taking into consideration the specific allegations leveled against him and that the bail was granted within 12 days from the date of rejection of earlier bail petition without there being any changed circumstances. Therefore, the bail granted to respondent No.2/A-1 is liable to be cancelled.

8. Accordingly, the Criminal Petition is allowed and the order, dated 22.10.2019 passed in Crl.M.P.No.3701 of 2019 in Crime No.234 of 2019, on the file of the II Additional

Metropolitan Sessions Judge, Hyderabad, is hereby set aside and the bail granted to respondent No.2/A-1 is cancelled. The 2nd respondent/A-1 is directed to surrender before the Court concerned, on or before 15.02.2020, if he fails to surrender, the Court concerned shall take steps for his apprehension.

JUSTICE G. SRI DEVI

21st January, 2020

sj

