



Crl.O.P.No.3948 of 2023

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T.V.THAMILSELVI, J.

The petitioner, who apprehends arrest for the alleged offence under Section 174 Cr.P.C altered to Section 306 of IPC in Cr.No.1036 of 2018 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that, the petitioner herein is the second wife of the deceased/brother of the de-facto complainant and they got married in the year 2008. While so, the petitioner and her sister continuously demanded money from the deceased and when the same was refused by the deceased, there arose some dispute in between them and due to which, the petitioner and her sister gave a false complaint against the deceased, as if the deceased had sexually harassed the daughter of the petitioner's sister. On filing of such frivolous complaint, the deceased underwent great stress and later he committed suicide by hanging himself. Hence, this complaint.

3. Learned counsel appearing for the petitioner submits that the petitioner is an innocent person and has not committed any offence as



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alleged by the prosecution. He further submitted that, the petitioner and the deceased worked together in Canara Bank and got married in the year 2008, after the death of the 1st wife of the deceased, who met with an accident in the year 2006 and it was a second marriage for both of them. While so, the petitioner was informed by Reshmi, 1st wife's daughter of the deceased that, the deceased sexually abused the daughter of the petitioner's sister and when the same was questioned by the petitioner herein, the deceased admitted the same and begged for forgiveness. Immediately, the petitioner's sister lodged a complaint and a FIR in Cr.No.48/2017 was registered against the deceased. After the above said incident, the petitioner got separated from the deceased and lived separately. He further submitted that, after enquiry and chief examination of witnesses, as the matter was adjourned to 01.11.2018, the deceased came back to Salem and he executed a WILL dated 26.10.2018, registered as Doc.No.90/2018 in favour of his daughter namely Reshmi and on the very same day the deceased committed suicide by hanging, as he was afraid of his conviction in the POCSO case and humiliation, however, in his suicide note, the deceased treacherously implicated the petitioner, as if she is the reason for committing suicide. He furthermore submitted that, the



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deceased convinced the petitioner and availed a housing loan to jointly purchase the property and till date, the petitioner is paying the EMI, however, the deceased, vide his WILL transferred the said property to the 1st wife's daughter of the deceased. Subsequently, the brother of the deceased had also filed a suit in O.S.No.56 of 2019 on the file of the Principal District Court, Salem for permanent injunction against the petitioner, which is not sustainable. Further, though the complaint was of the year 2018, all of a sudden, the offence was altered into 306 of IPC, which is inappropriate. Hence, he prayed for grant of anticipatory bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent submits that the deceased before committing suicide executed a registered WILL in favour of the 1st wife's daughter of the deceased and a suicide note was also secured by the police and produced the same before this Court and in which it is mentioned by the deceased that he committed suicide due to the mental harassment given by the petitioner. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.



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WEB COPY 5. Heard learned counsel on either side and perused the materials available on record.

6. The alleged occurrence took place in the year 2018 and though the learned Government Advocate (Crl.Side) submitted that the respondent police have secured a suicide note of the deceased at the scene of occurrence, however, the offence has been altered to Section 306 of IPC, after a lapse of about four years. Further, considering the fact that the petitioner is employed in Canara Bank, there is no possibility that the petitioner will abscond. Hence, this Court is inclined to grant anticipatory bail to the petitioner on condition that, the petitioner should not cause any interference in the property which is under the enjoyment of the family members of the deceased, except in the manner known to law.

7. Accordingly, the petitioner is ordered to be released on anticipatory bail in the event of arrest or on his appearance, within a period of fifteen



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days from the date of receipt of a copy of this order, before the learned

Judicial Magistrate No.2, Salem, on condition that the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand Only)** with two sureties(one must be a blood surety) each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner shall report before the respondent police as and when required for further interrogation;

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner shall not abscond either during investigation or trial;

(e)on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance



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with law as if the conditions have been imposed and the petitioner released on anticipatory bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

24.02.2023

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T.V.THAMILSELVI, J.

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