

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL PETITION No.2595 OF 2023

ORDER:

This Criminal Petition is filed by the petitioner – accused No.1 under Section 438 of Cr.P.C. to enlarge the petitioner on bail in the event of his arrest in connection with Crime No.14 of 2023 on the file of Chandurthy Police Station, Rajanna Sircilla District registered for the offence under Section 306 read with Section 34 of IPC.

2. The case of the prosecution in brief was that on 31-01- 2023 at 4:45 P.M., the sister of the deceased lodged a report stating that her younger brother Athena Raju, who was working as Record Assistant in Sircilla Court committed suicide by hanging. Her younger brother's wife Athena Shailaja incurred debts while running a medical shop along with one Mukka Venkatesh (the petitioner herein) at Jagtial and sustained loss. One lady by name, Md.Saleema filed a false case against her younger brother. For the past 5 years, her younger brother's wife was staying away from her husband. While so, three days before Shailaja came along with her

children to Chandurthy village, picked up quarrel with the deceased and left. Her younger brother worried mentally, committed suicide in her absence and requested to take action against the wife of her younger brother by name, Athena Shailaja, Mukka Venkatesh and Md.Saleema, etc., who were responsible for the death of her younger brother.

3. Basing on the said report, the police of Chandurthy Police Station, Rajanna Sircilla District registered a case vide Crime No.14 of 2023 under Section 306 read with Section 34 of IPC.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

5. The learned counsel for the petitioner – accused No.1 submitted that there was not even a whisper in the complaint that the petitioner instigated the deceased to commit suicide. The defacto-complainant, at the instigation of some persons, who had adverse terms with the petitioner had invented a story by roping the petitioner and others as accused, taking advantage of the death of the deceased to evade repayment of hand loans. The allegations in

the complaint even if considered were true, they would only disclose that the petitioner was running a medical shop with the wife of the deceased. There was no other statement that points that the petitioner had induced the deceased to commit suicide. The petitioner had no role to play in the suicide of the deceased. The accused No.2 was granted anticipatory bail by the court vide order dated 17.02.2023 in CrI.M.P.No.53 of 2023 in Crime No.14 of 2023. The petitioner was ready to cooperate with the investigating agency and prayed to enlarge the petitioner on bail in the event of his arrest.

6. The learned Additional Public Prosecutor submitted that the name of the petitioner was found in the suicide note of the deceased that he was responsible for his death and that the petitioner was having an extra marital affair with the wife of the deceased and both of them troubled him.

7. Perused the record and a copy of the suicide note filed by the learned Additional Public Prosecutor. The suicide note of the deceased would disclose that the wife of the deceased was running a medical shop along with the petitioner herein at Jagtial and the

petitioner made him addicted to alcohol and while he was in inebriated condition, both of them obtained his signatures on blank cheques and handed over the said cheques to one Saleema Bee, from whom they had taken loan and the said Saleema Bee filed a case against the deceased and his wife. The petitioner had extra marital affair with his wife. The suicide note also would disclose that the wife of the deceased was living separately from him for the past seven years.

8. The complaint and the suicide note would not disclose that the petitioner induced the deceased to commit suicide. The petitioner was resident of Jagtial and the deceased was resident of Chandurthy village and the complaint or suicide note would not disclose that the petitioner approached the deceased or abetted him or instigated him to commit suicide.

9. Learned counsel for the petitioner relied upon the judgments of the Hon'ble Apex Court in **Gurucharan Singh Vs. State of Punjab¹**, **M. Arjunan Vs. State** represented by its Inspector of

¹ (2017) 1 SCC 433

Police², Rajesh Vs. State of Haryana³ and Gurucharan Singh Vs. State of Punjab⁴ wherein it was held that the essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 I.P.C.

10. As none of the ingredients of Section 306 of IPC would attract against the petitioner, it is considered a fit case for grant of anticipatory bail to the petitioner.

11. In the result, the Criminal Petition is allowed and the petitioner is granted anticipatory bail subject to the following terms and conditions:

- a) The petitioner is directed to surrender
before the SHO of Chandurthy Police

² (2019) 3 SCC 315

³ (2020) 15 SCC 359

⁴ (2020) 10 SCC 200

Station, Rajanna Sircilla District within a period of fifteen (15) days from the date of this order, and on such surrender the SHO of Chandurthy Police Station, Rajanna Sircilla District shall release the petitioner on bail on his executing a personal bond for a sum of Rs.15,000/- with two sureties each for the like-sum to the satisfaction of the said SHO of Chandurthy Police Station, Rajanna Sircilla District.

- b) The petitioner shall co-operate with the investigating agency and should appear before them as and when required by the investigating agency.
- c) The petitioner shall comply with the conditions laid down in Section 438(2) of Criminal Procedure Code, 1973.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. G.RADHA RANI, J

04th April, 2023

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