

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION NO.3094 OF 2023

ORDER:

This Criminal Petition is filed by the petitioner / A1 under Section 438 of Cr.P.C. to enlarge her on bail in the event of her arrest in connection with Crime No.88 of 2023 of PS Kandukur registered for the offence under Section 306 read with Section 34 of IPC.

2. The case of the prosecution in brief was that the de-facto complainant, the wife of the deceased lodged a report before Kandukur Police on 16.03.2023 at 08:00 AM alleging that the petitioner who was the Manager of Canara Bank, Lemur Branch abused her deceased husband Kishore who was working as an attender in the said bank, scolded him to get out and insulted him in the presence of other staff members on 15.03.2023 at 09:00 AM while the deceased was performing his duty. She further alleged that earlier the petitioner took loan in the name of the complainant with the consent of the deceased but did not pay the loan amount. However, the Earnest Monthly Installments (for short “EMIs”) were recovered from the salary of the deceased. The petitioner never used to pay petrol charges to the deceased whenever she sent him outside in connection with duties. She further alleged that at 11:00 AM on the same day, the deceased returned home and committed suicide by consuming pesticide

poison. On noticing the same, the complainant enquired from him the reasons for taking such drastic step and the deceased informed her that in view of the harassment of the petitioner and the Assistant Manager, Chandrakanth and unable to bear the insult caused by them, he consumed the pesticide poison.

3. Basing on the said report, Police of PS Kandukur registered a case in Crime No.88 of 2023 for the offence under Section 306 read with 34 of IPC.

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

5. The learned counsel for the petitioner submitted that the allegations in the complaint even if taken to be true without admitting the same, would not make any case under Section 306 of IPC. To attract the offence under Section 306 of IPC, there should be a positive act on the part of the accused to instigate or aid in committing suicide and that act must have been intended to push the deceased to such a position that he would commit suicide. The positive act should also be proximate to the time of occurrence which led or compelled the person to commit suicide. In the instant case, there was nothing to show that the petitioner did any positive act or instigated or aided the deceased in committing suicide. The allegation in the complaint that the petitioner applied loan in the name of the de-facto complainant and did not disburse the loan amount but EMIs were deducted from the salary of the deceased were false and prayed to enlarge the petitioner on bail.

6. The learned Additional Public Prosecutor opposed grant of bail to the petitioner.

7. Perused the record. Admittedly, there was no suicide note written by the deceased except the allegations made by the complainant, the wife of the deceased that her husband informed her that he consumed poison due to the insult caused by the petitioner as well as the Assistant Manager, Chandrakanth. As per the settled legal principles, in a case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide and such an offending action ought to be proximate to the time of occurrence. There is no allegation of direct or indirect acts of incitement committed by the petitioner abetting the suicide of the deceased.

8. The loan account statement in the name of the complainant filed by the learned counsel for the petitioner would disclose that an amount of Rs.1,60,000/- was sanctioned on 21.06.2022 and the said account was closed on 19.12.2022. There was a long gap between the deceased committing suicide and the said loan obtained in the name of respondent No.2 – complainant. Hence, it is considered a fit case to grant anticipatory bail to the petitioner.

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

(i) The petitioner is directed to surrender before the Station House Officer (for short “SHO”) of PS Kandukur within a period of fifteen (15) days from the date of this order, and on such surrender the SHO, PS Kandukur shall release the petitioner on bail on her 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. The petitioner shall comply all the conditions laid down under Section 438 (2) of Cr.P.C.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. G.RADHA RANI, J

06th April, 2023
nsk.