

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.3262 OF 2023

ORDER:

This Criminal Petition is filed by the petitioners – accused Nos. 1 to 4 under Section 438 of Cr.P.C. to enlarge them on bail in the event of their arrest in connection with Crime No.58 of 2023 of P.S. Thallada, Khammam District registered against them for the offences under Section 304-B of IPC.

2. The case of the prosecution in brief was that on 24.03.2023 at 11:00 P.M., the defacto-complainant, father of the deceased lodged a report before the Police of P.S. Thallada stating that he performed the marriage of his elder daughter Sravya with accused No.1 on 21-11-2020 as per Hindu rites and customs. At the time of her marriage, as per the demand of accused No.1 and his parents, he gave 2½ Acres of dry land, 5 Lakhs in cash, Gold, Adapaduchu katnam and other lanchanalu, house hold articles, total worth of Rs.30,00,000 /-. Accused No.1 was working as Manager in Canara Bank at Hyderabad at that time. After the marriage, his daughter lived with her in-laws at Khammam for few days. On 10.12.2020, accused No.1 took his daughter to Hyderabad and they lived there for few months.

He contended that when his daughter was at Khammam, her in-laws harassed her for additional dowry and even when she was in Hyderabad, her sister-in-law who was staying at a nearby house in Hyderabad harassed her for additional dowry of Rs.5,00,000/- and all the accused abused and harassed her physically and mentally. A panchayat was conducted by the village elders. The elders tried to convince accused No.1, but he did not heed to their words and demanded for additional dowry. In the said context, his deceased daughter made a complaint before the P.S. Thallada on 25.12.2021 against her husband and in-laws. She also filed a maintenance case. At the time of hearing of the court case, accused No.1 abused his daughter in filthy language. Her father-in-law also informed their lawyer on 24.03.2023 during the hearing of the M.C. case that unless additional dowry was given, they would not take back the deceased. On hearing the same, his daughter committed suicide in his house by hanging to a ceiling fan with her saree on 24.03.2023 at 4.00 PM.

3. Basing on the said report, Police registered a case in Crime No.58 of 2023 for the offence under Section 304-B of IPC.

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

5. The learned counsel for the petitioners submitted that the marriage between the Accused No. 1 and the deceased was solemnized on 21.11.2020. It was an arranged marriage. The deceased joined her husband on 10.12.2020. Accused No.1 and deceased lived together at Hyderabad for a short period. During that time, the deceased had shown her attitude, adamant and arrogant behaviour towards her husband and in-laws. Even then the Petitioners put lot of efforts to save the matrimonial life of Accused No. 1 and deceased, but in vain. Unable to tolerate her commanding nature, some disputes arose in between them. Finally the deceased left her matrimonial house on 08.05.2021 without informing her husband i.e. petitioner No. 1 herein. The petitioner Nos.2 to 4 never lived together along with the Petitioner No.1 and the deceased. The deceased after leaving the matrimonial house on 08.05.2021 lodged a complaint before the Police against her husband and in-laws with false and baseless allegations. After enquiry, the police came to know that the same were false and refused to receive the same. Aggrieved by the same, the deceased approached the Court and Police registered a case as per the directions of

the Court in Crime No. 256 of 2021 under Section 498-A of IPC and Sections 3 & 4 of Dowry Prohibition Act. The same was numbered as CC No. 48 of 2022 on the file of I Additional Junior Civil Judge – cum – I Additional Judicial First Class Magistrate, Madhira, and the same was posted to 27.07.2023 for examination. In the said case, the police implicated all the family members of petitioners. The petitioner No.1 filed O.P. No. 1918 of 2021 on the file of Judge, Additional Family Court, Ranga Reddy at LB Nagar for dissolution of marriage. The same was transferred as per the directions of the High Court in Tr.CMP No.276 of 2022 dated 29.10.2022. The deceased filed DVC Case vide DVC No. 46 of 2022 on the file of II Additional Junior Civil Judge – cum - II Additional Judicial First Class Magistrate, Khammam and the same was posted to 12.04.2023, but summons were not served in the DVC. The deceased also filed M.C. No.2 of 2022 on the file of Judge, Family Court – cum – IV Additional District and Sessions Judge, Khammam. The above matter was allowed exparte and the petitioner was directed to pay an amount of Rs.20,000/- per month as maintenance to the deceased. Aggrieved by the exparte order, the petitioner No.1 filed a set aside petition before the same court and the same was pending.

5.1. He further submitted that the 1st petitioner was a Government Employee and was working at Raichur at present and he was falsely implicated in the present Crime. The 3rd petitioner was living separately along with her husband i.e., 2nd petitioner at Khammam and the 4th petitioner was living separately along with her husband and children. After filing the cases, the petitioners never contacted the deceased, therefore, the question of committing offence under Section 304-B of IPC would not arise. During the time of counselling in O.P. No.1918 of 2021, the deceased stated that she was not willing to join with her husband. He further submitted that if the petitioners were arrested, it would cause irreparable loss and hardship to the petitioners and prayed to grant anticipatory bail to the petitioners.

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

7. Perused the record. The record would disclose that the deceased committed suicide at her parental house on 24.03.2023 at 4:00 P.M., after leaving the matrimonial company of petitioner No.1 on 08.05.2021 i.e., after a lapse of more than 22 months. Even as per the complaint, accused

No.1 abused the deceased on 15.02.2023 when she appeared for the case hearing in C.C.No.48 of 2022 before the court, but she committed suicide on 24.03.2023. There was a gap of 38 days between the two incidents. To attract the offence under Section 304-B of IPC, the deceased should be subjected to cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry. The phrase used in the Section that the deceased should be subjected to cruelty 'soon before her death' should be proximate. Considering that deceased left the matrimonial home on 08.05.2021 itself long prior to her death and there was no proximity between the alleged demands made by the petitioners and the death of the deceased, it is considered fit to grant anticipatory bail to the petitioners.

8. In the result, the Criminal Petition is allowed and the petitioners are granted anticipatory bail subject to the following terms and conditions:

- i. The petitioners are directed to surrender before the SHO Thallada Police Station within a period of fifteen (15) days from the date of this order, and on such surrender the SHO, Thallada Police Station shall release the petitioners on bail on their executing

a personal bond for a sum of Rs.15,000/- with two sureties each for the like sum to the satisfaction of the SHO.

- ii. They are further directed to cooperate with the investigating agency and should appear before them as and when required.
- iii. The petitioners shall comply with the conditions laid down in Section 438(2) of Cr.P.C.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. JUSTICE G. RADHA RANI

April 10, 2023

ss