

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION Nos.9171 & 9300 of 2023

ORDER:

1. These Criminal Petitions are filed under Section 438 of Cr.P.C. by the petitioners/Accused Nos.1 to 3 seeking bail in the event of their arrest in connection with Crime No.163 of 2023 on the file of Narkatpally Police Station, Nalgonda District, registered for the offences punishable under Sections 307, 498-A, 323, 504, 506 r/w 34 of Indian Penal Code and Section 4 of Dowry Prohibition Act.

2. Since the petitioners are involved in the very same crime, both the petitions are heard together and disposed off by this common order.

3. Heard learned counsel for the petitioners and learned Assistant Public Prosecutor for the respondent-State and perused the record.

4. The complaint was lodged on 17.09.2023. The complaint was lodged by the *de facto* complainant alleging that she was married to accused No.1 on 20.11.2015. At the time of marriage, dowry was given. Accused No.1 was permanently residing at Australia. Thereafter, they went to Australia and stayed there

for some days. Thereafter, She had conceived two months after the marriage, which was terminated on the force of accused No.1 and his parents. Again in the year 2017, she conceived for the second time and she was forced to abort the pregnancy, for the reason of the sister of accused no.1 not conceiving for five years, for which reason the complainant got aborted. Thereafter, both accused No.1 and complainant moved to India. The petitioner/accused no.1 was addicted to alcohol and other bad habits. He was least bothered about the welfare of the *de facto* complainant. He had also taken several debts.

5. Further, the allegation is that on 17.09.2023 when she woke up and went into the kitchen, she found that the gas pipe was removed from the cylinder. The said act was done by the petitioners herein with an intention to kill her. Immediately she noticed the same and asked her husband, for which accused no.1 replied that they have done it intentionally to kill her, so that they could get more dowry. The said incident was informed to the parents of the *de facto* complainant. When the *de facto* complainant parents went to the house, they were attacked physically.

6. Learned counsel for the petitioner would submit that in fact, a complaint was filed by the petitioners herein against the wife of accused No.1 and her relatives, which was not entertained by the police. The *de facto* complainant and relatives have attacked the petitioners herein. Further, they are now illegally staying in the farm house. The alleged incident also taken place in the farm house of these petitioners.

7. On the other hand, the learned Public Prosecutor would submit that the intention to kill is the criteria to attract an offence under Section 307 of Indian Penal Code. When the *de facto* complainant went into the kitchen, she found that gas pipe was removed and when questioned accused no.1 stated that it was intentionally done to get more dowry.

8. It appears that there are differences in between the spouses when they were staying in Australia and after returning from Australia.

9. The alleged incident of termination of pregnancy was in the year 2017 and prior to that. Thereafter, the evidence of attempting to murder was on 17.09.2023. The allegation is on

account of the *de facto* complainant finding that the gas pipe of the cylinder was removed with an intention to kill her.

10. As seen from the complaint, the allegation of offence under Section 313 of Indian Penal Code was prior to 2017 and it is not the case that they had committed any acts, resulting in forcible abortion of the *de facto* complainant.

11. Keeping in view that that the differences between them, this Court deems it appropriate to grant the relief of anticipatory to the petitioners-accused nos.2 and 3 and no such relief is given to accused no.1, subject to the following conditions:

- 1) The petitioners/Accused Nos.2 and 3 are directed to surrender before the Station House Officer, Narkatpally Police Station, Nalgonda District, on 03.10.2023. On such surrender, the said Station House Officer shall release the petitioners on bail, on their executing personal bonds for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two sureties for a like sum each to his satisfaction.
- 2) On such release, petitioners/Accused Nos.2 and 3 shall appear before the concerned Station House Officer, as and when required.
- 3) The petitioners/Accused Nos.2 and 3 shall abide by the other conditions stipulated in Section 438(2) of

Cr.P.C and shall co-operate with the Investigating Officer in investigating the case.

12. Accordingly, these Criminal Petitions are allowed. Miscellaneous applications, if any pending in this criminal petition, shall stand closed.

Date : 27.09.2023
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K.SURENDER, J

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Dt.27.09.2023

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