



Crl.O.P.No.28022 of 2023

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and
Crl.MP.No.110 of 2024

C.V.KARTHIKEYAN,J.

The petitioner/A2 in Cr.No.252 of 2023 registered originally under Sections 174 of Cr.P.C and subsequently altered into Section 306 of IPC seeks anticipatory bail.

2, The main thrust of the arguments of the learned counsel for the petitioner is that the first accused had been granted bail after being arrested by an order dated 18.12.2023 in Crl.OP.No.27720 of 2023. It is also stated that A2 and another accused A3 had been granted anticipatory bail by the another learned Single Judge of this Court in Crl.OP.No.29265 of 2023 by an order dated 29.12.2023.

3. The main case of the prosecution is that the deceased, was the son of the first wife and the petitioner herein and two of the siblings are children through the second wife. The father left behind properties. In



one of the property , the ground floor was allotted to the deceased and the first floor was allotted to petitioner herein and his other brothers and sisters. In the ground floor, there was a shop. It is stated that with an intention to grab the property, on instigation, the front door of the shop was broken open and when the deceased questioned, he was humiliated in public. Later, he had committed suicide after writing a suicide note.

4. Learned counsel for the petitioner stated that in the F.I.R the defacto complainant/wife of the deceased had stated that the deceased was already under mental stress and stated that therefore the prolonged mental stress could be the cause for suicide. The suicide note was also referred to by the learned counsel and it is stated that though he had mentioned the name, there was nothing specific in the said suicide note. The learned counsel for the petitioner further stated that the first accused was granted bail. He had been granted bail after he had filed an affidavit acceding to division of properties. It is stated that this petitioner would also confirm to the same conditions. However, it is stated that for 16 days after the death, there was no complaint whatsoever raised by the wife and



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on the 16th day, the defacto complainant had stated that the petitioner and his other brother and sisters should purchase the share of the deceased, but, that suggestion was not taken up by the petitioner and all the other accused. It is stated that the Waqf Board also has a right over the property and therefore registration could not be effected of any document touching upon the said property without consent from the Waqf Board.

5. Learned counsel for the petitioner further stated that the C.C.TV camera footages have been secured and stated that the prosecution had not stated specifically whether the petitioner was actually present, at that time, when the incident happened after the break open of the shop or humiliation of the deceased in public. It is stated that the petitioner herein had gone to his office as usual on that particular date. It is therefore contended that since other accused have been granted either bail or anticipatory bail, this Court should also consider the application of this petitioner. Even before proceeding further it must be mentioned that the bail of the first accused had been granted by this Court. However, the anticipatory bail of A3 had been granted by another learned Single Judge,



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who is at present sitting in Madurai Bench of Madras High Court and therefore, the matter has been listed before this Court.

6. The learned Government Advocate (Crl.Side) had raised strong objections. Status Report had also been filed. It is the contention of the learned Government Advocate that with the intention to grab the properties of the defacto complainant, the defacto complainant had been subjugated to much mental torture and that this petitioner was the main instigator. It is stated on that particular date, he was very much available in the first floor and had instigated the happenings which occurred in the ground floor and in public. It is also stated that if the defacto complainant's family is ousted from this property, there is also every possibility that all other properties which their father had left behind would be taken away by the accused persons. It is therefore contended that the petition seeking anticipatory bail should be rejected by this Court.

7. Learned Government Advocate (Crl.Side) further stated that the suicide note left behind had been recovered and therefore stated that



since the name of the petitioner had been mentioned in the suicide note, further investigation have to be done about the circumstances surrounding the necessity for committing suicide of the deceased.

8. The defacto complainant is also represented by counsel who had filed intervening application. Along with the intervening applications, photographs have also been produced and it is contended by the learned counsel that the deceased had been subjected to continuous harassment and it is also contended that this petitioner was the main instigator of all such harassments of the deceased which ultimately forced him to take the drastic step of taking his own life. The grant of any relief is strongly resisted by the learned counsel.

9. I have carefully considered the arguments. It must be pointed out that consideration for grant of bail is on different parameters and consideration of anticipatory bail is on different parameters. While granting bail, period of incarceration and all other such factors would be a determining factor. While granting anticipatory bail, the necessity for the petitioner to be subjugated for interrogation has also to be considered



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as one of the factors. While granting bail, one of the conditions which had been imposed was that the first accused should continue to appear before the respondent till this petitioner was secured or till further orders. Without properly enlightening this Court about that particular fact, an order for relaxation had been obtained. That itself exposes the surreptitiousness of the accused persons. Leaving that aside, the fact that one of the accused had been granted anticipatory bail, would not take the petitioner anywhere as the overt act assigned as against him will have to be independently assessed and examined. When so assessed and examined, it is revealed that this petitioner and his children would stand to direct benefit on the death of the deceased. The petitioner herein would certainly succeed to the property and also to a larger share . There is also every possibility of the widow of the defacto complainant being ousted from any share in the properties. It is seen that the ground floor of the property had been allotted to the defacto complainant. There is a shop in the ground floor. That was locked. The front door had been broken open on that fateful day. This was questioned by the deceased/defacto complainant. He was humiliated in public. This led him to commit



suicide. It is the contention of the wife of the defacto complainant that her husband was already under mental stress owing to disputes over the property. A person who is already under stress, if further put to much harassment might take such a drastic step by taking away his life to himself. The reasons for the same would not be a single incident. It is a series of incidents which forces a person to take that particular fatal decision. This fact is also stated by the learned counsel for the Intervenor who had stated that the deceased was already stressed owing to disputes over property. Breaking open of the door of a portion allotted to the defacto complainant is a direct instigation. It may not be by the hands of the petitioner herein, but, he is the shadow behind those who actually broke open the door. He is answerable for the offence which is alleged to have been committed. That offence is instigation of suicide. Let investigation be completed. The investigation has not been completed. It has to come to an end. At this stage, I am not inclined to grant anticipatory bail to the petitioner.

10. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.



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