

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.1196 OF 2024

ORDER:

1. This Criminal Petition is filed by the petitioner/accused under Section 438 of Code of Criminal Procedure, 1973 (for short “Cr.P.C”) seeking bail to the petitioner/accused in the event of his arrest in Crime No.116 of 2023, on the file of Parvathagiri Police Station, Warangal District registered for the offence under Section 174 of the Criminal Procedure Code (for short ‘Cr.P.C.’) altered to Section 306 of the Indian Penal Code (for short ‘IPC’).
2. As per the case of the prosecution, the father of the deceased lodged a report before the Police on 09.07.2023 at 21:00 hours stating that his son committed suicide by consuming an unknown pesticide due to loss in business and found dead, as such, a case was registered under Section 174 of Cr.P.C. for suspicious death and subsequently, basing on the suicide note of the deceased, the Police altered the Section of Law from Section 174 Cr.P.C. to Section 306 of IPC.
3. Heard Sri Kilaru Rama Rao, learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner submitted that the deceased i.e., the son of the complainant has taken huge amount from the petitioner on credit basis for the purpose of running Bisleri Water business and failed to repay the said amount. In the said regard, the petitioner called the deceased several times and demanded for return of the loan amount but the deceased gave evasive replies and did not repay the amount. When the petitioner called the deceased for return of the loan amount, the deceased warned the petitioner that if he would call him again, he would implicate his name and commit suicide. The petitioner was falsely implicated and the Principal Sessions Judge, Warangal without considering the matter in proper perspective, dismissed the anticipatory bail application filed by the petitioner *vide* order dated 09.01.2024. Learned counsel further submitted that the image of the petitioner in the society would be at stake and prayed to grant anticipatory bail to the petitioner.

5. Learned Additional Public Prosecutor furnished the suicide note of the deceased, which would only disclose that the deceased has taken loan from the petitioner. The said suicide note would not disclose the petitioner abetting the deceased to commit suicide.

6. Learned counsel for the petitioner relied upon the judgment of the Hon'ble High Court of Gujarat at Ahmedabad in ***Jorubhai Amrubhai Varu v. State of Gujarat***, wherein by relying upon the judgment of the Hon'ble Apex Court in ***M.Mohan v. State represented by the Deputy Superintendent of Police*** (AIR 2011 SC 1238) and considering the judgment in ***Gangula Mohan Reddy v. State of Andhra Pradesh*** [(2010) 1 SCC 750], it was held that:

“Admittedly, the allegation in the FIR is of deceased having borrowed money from the present applicant. The deceased failed to repay the amount with interest. The applicant was constantly demanding the money and alleged to have threatened the deceased. Such act of demanding the repayment of money would not bring case within the meaning of Section 306 of the Indian Penal Code. There would not be any mens rea of the applicant as he would not benefitted from the act of suicide of the deceased and thus, prima facie the allegation in the FIR, taken at its face value do not prima facie constitute any offence or make out a case against the accused”.

7. Considering that the observations made by the Hon'ble Apex Court in the above case are also applicable to the facts of this case and *prima facie* the ingredients of Section 306 of IPC are not attracted, it is

considered fit to enlarge the petitioner on anticipatory bail, subject to the following conditions:

- i) The petitioner/accused is directed to surrender before the Station House Officer, Parvathagiri Police Station, Warangal District within a period of two (02) weeks from the date of receipt of a copy of this order, and on such surrender, the concerned Station House Officer shall release the petitioner on executing a personal bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties, for a like sum each to his satisfaction.
- ii) The petitioner/accused shall abide by the other conditions stipulated in Section 438(2) of Cr.P.C.

8. Accordingly, this Criminal Petition is allowed. Miscellaneous applications, pending if any, shall stand closed.

Date: 06.02.2024
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DR.G. RADHA RANI, J

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