

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.3973 OF 2024

ORDER:

This Criminal Petition is filed by the petitioner-accused No.2 under Sections 437 & 439 of Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) for grant of regular bail in the event of his arrest in Crime No.62 of 2024 on the file of the Station House Officer, Mohammedabad Police Station, Mahabubnagar District, registered for the offence under Section 306 of IPC.

2. The case of the prosecution in brief was that on 11.03.2024 at 10.00 hours, the *de-facto* complainant, the mother of the deceased lodged a report before the police stating that her son aged 19 years was working for her villager-A1 on his bore-well vehicle for the past two years. A1 sent the deceased home suspecting that he had committed theft of diesel from their bore-well vehicle. Since then, A1 and A2 were calling her son and harassing him suspecting that he committed theft of diesel. Unable to bear such harassment, on 10.03.2024 at 10.00 hours, when the complainant was out of the house, her son consumed unknown pesticide and fell down in their house. Immediately, the complainant on coming to know about the same shifted him to Mahabubnagar Government Hospital in 108 ambulance. While undergoing treatment, he died on 11.03.2024 at 07.24

hours. Basing on the said report, the above crime was registered and A2 was arrested on 12.03.2024.

3. Heard the learned counsel for the petitioner-A2 and the learned Assistant Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner submitted that the police had falsely implicated the petitioner in the case. The ingredients of Section 306 of IPC would not attract to the present case. There was no abetment and instigation on the part of the petitioner to do away with the life of the deceased and relied upon the judgments of the erstwhile High Court of Andhra Pradesh in **Allaveni Rajeshwari Vs. State of Andhra Pradesh**¹ and **Neelam @ Bendila Lachaiah and Anr. Vs. State of Andhra Pradesh**² and of the Hon'ble Apex Court in **Sanju @ Sanjay Singh Sengar Vs. State of M.P.**³.

5. Learned Assistant Public Prosecutor opposed grant of bail to the petitioner stating that due to the humiliation caused by the accused and his brother calling him daily to their house and harassing him on suspicion of the diesel theft by him, the deceased consumed some known pesticide and died, as such, the petitioner-A2 was not entitled to be released on bail.

¹ 2006 (1) ALD (Crl.) 980

² 2002(1) ALD (Crl.) 539

³ AIR 2002 SC 1998

6. Perused the record and the citations relied by the learned counsel for the petitioner. Considering that the complaint would not disclose any instigation or abetment committed by the petitioner herein to the deceased to commit suicide and as per the above judgments the words uttered like 'to go and die' also would not amount to instigation or incitement or urging to do some drastic or unadvisable action or to stimulate or incite and the Hon'ble Apex Court in **Sanju @ Sanjay Singh Sengar Vs. State of M.P.** (3 supra) stated that:

"A word uttered in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged for abetting the offence of suicide should be found guilty."

7. Considering the ratio of all the above judgments, as no complaint was even lodged by the petitioner-A2 for the diesel theft which they were suspecting to have committed by the deceased and there were no allegations of the petitioner-A2 uttering any words amounting to abetment or

provoking him to commit suicide and no such act was committed by the petitioner intentionally aiding the deceased to commit suicide and considering that the petitioner is in custody since 35 days, it is considered fit to enlarge the petitioner on bail on certain conditions.

8. Accordingly, the Criminal Petition is allowed and the petitioner shall be released on bail subject to the following conditions:

- 1) The petitioner-A2 shall execute a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to the satisfaction of the Special Judicial First Class Magistrate-cum-Mobile Court at Mahabubnagar.
- 2) The petitioner-A2 shall abide by the conditions stipulated under Section 438(2) of Cr.P.C.

Miscellaneous applications, pending if any, shall stand closed.

April 16, 2024
ss

Dr. G.RADHA RANI, J