

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.4019 of 2024

ORDER:

This Criminal Petition is filed by the petitioner – A2 under Section 438 of Code of Criminal Procedure for grant of anticipatory bail in the event of his arrest in Crime No.326 of 2024 on the file of PS Miyapur, registered for the offences punishable under Sections 307, 354 and 452 of IPC.

2. The case of the prosecution in brief was that on 12.03.2024 at 20:00 hours, the *de facto* complainant lodged a report before the PS stating that she had taken mutual consent divorce from her husband and A2 had mediated the same. A2 (the present petitioner herein) had taken a loan of Rs.10,00,000/- from the *de facto* complainant. Thereafter, he started harassing the complainant sexually and A1, the wife of A2 also supported the behavior of A2. A1 and A2 demanded Rs.25,00,000/- from the complainant. On 10.03.2024, the accused A1 and A2 along with their kids came to her house and invited them for their daughter's birthday and left on the same day at around midnight. The petitioner i.e. A1 came back to her house at around 02:00 AM and banged the door. When the complainant opened the door, the petitioner trespassed into her house with a knife and attempted to murder the *de facto* complainant. Due to which, she sustained injuries on her neck, stomach and other body parts.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent – State.

4. Learned counsel for the petitioner submitted that the accused and the *de facto* complainant were known to each other and had cordial relationship for several years. The accused had advanced an amount of Rs.10,00,000/- to the *de facto* complainant to enable her to stand on her own feet after divorce. But the complainant taking advantage of the situation, started taking the accused persons for granted and never shown any intention to repay the said amount and when the accused persons requested the complainant to pay back the loan, the *de facto* complainant started showing her true colors. On 10.03.2024, when the accused persons went to invite the *de facto* complainant for the birthday party of their child, they also made a passing remark and requested the complainant to consider paying back the loan. Subsequently, the *de facto* complainant called the accused on the very same day at around 10:00 PM and stated that she wanted to talk about repayment. Being late at night, the accused No.2 sent A1 being a lady to talk with the *de facto* complainant. However, the *de facto* complainant started abusing A1 and threatened her with false cases, if the demands for money were not stopped. The relatives of the *de facto* complainant also entered the house and ganged up A1 and even men of the house tried to manhandle A1 and abuse her. Feeling unsafe, A1 immediately dialed 100 at around 10:00 PM on 10.03.2024. The police arrived at the house of the *de facto*

complainant. In front of them also, A1 was harassed. Subsequently, the police took all the parties to the police station. The learned counsel filed the photographs of the *de facto* complainant present at the police station on the night of 10.03.2024.

4.1. Learned counsel for the petitioner further submitted that no grievous injuries were caused to the *de facto* complainant. The photographs filed would not show that she was injured in the manner as stated. But on the contrary, she was present in the police station on the night of 10.03.2024 itself. As such, it was evident that no murder was attempted on the *de facto* complainant. The said allegations were made only to arm twist the accused herein to prevent them from collecting the money. When the *de facto* complainant herself invited A1 to her house, there could be no charge under Section 452 of IPC and prayed to enlarge the petitioner on anticipatory bail.

5. Learned Additional Public Prosecutor opposed grant of anticipatory bail to the petitioner stating that there were allegations of attempt to commit murder against the *de facto* complainant. The injury certificate also would disclose that the complainant sustained injuries and opposed grant of anticipatory bail to the petitioner.

6. Perused the record.

7. The *de facto* complainant was alleging that she had given a loan of Rs.10,00,000/- to A2 and the accused persons were alleging that they had advanced an amount of Rs.10,00,000/- to the *de facto* complainant, which were contradictory to each other. But, however, both the parties had cordial relationship with each other for the past several years. On the date of alleged incident on 10.03.2024 also, it was stated that the accused persons along with their kids came to the house of the *de facto* complainant and invited her for their daughter's birthday and that she subsequently called the accused on the same day at around 10:00 PM. As seen from the screen shots of the messages appended to the present petition, it was the accused No.1 who dialed the police around 03:01 AM on 11.03.2024 and that police also arrived at the house of the *de facto* complainant and took all the parties to the police station. The photos of the *de facto* complainant at the police station on the night of 10.03.2024 appended to the present petition would also confirm the same. The photographs filed would not disclose the *de facto* complainant sustaining any grievous or life threatening injuries either on her neck or stomach. The complaint was lodged on 12.03.2024 at 20:00 hours with a delay, though she was in the early hours of 11.03.2024 itself in the police station. The *de facto* complainant was not referred to the hospital on the same day by the police. She got treated herself at a private hospital. As per the MLC report filed by the learned Additional Public Prosecutor also, it would disclose that the complainant sustained only an

abrasion, which was simple in nature. As such, it raises a strong suspicion over the incorporation of Section 307 of IPC. The offence under Section 354 of IPC was also alleged to have committed long back and as the complaint itself would disclose that the complainant herself called the accused persons to her house to speak about the repayment of the loan, *prima facie* the offence under Section 452 of IPC also does not appear to attract. As such, it is considered fit to enlarge the petitioner – A2 on anticipatory bail on certain conditions.

8. In the result, the Criminal Petition is allowed and the petitioner – A2 is granted anticipatory bail subject to the following conditions:

(i) The petitioner – A2 is directed to surrender herself before the Station House Officer of PS Miyapur within a period of (15) days from the date of this Order, and on such surrender, the SHO of PS Miyapur shall release the petitioner – A1 on bail on her executing 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 said Station House Officer.

(ii) The petitioner – A2 shall comply with the conditions laid down under Section 438(2) of Cr.P.C.

As a sequel, miscellaneous applications pending in this petition, if any shall stand closed.

Dr. G. RADHA RANI, J