

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL PETITION No.13922 OF 2024

ORDER:

This criminal petition is filed by the petitioner – accused No.1 under Sections 480 and 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail in Crime No.814 of 2024 of KPHB Colony Police Station, Cyberabad, registered for the offences under Sections 318(4), 85 and 108 of Bharatiya Nyaya Sanhitha (for short 'BNS').

2. The case of the prosecution, in brief, was that on 25.07.2024 at 21.00 hours, the *de facto* complainant, brother of the deceased, lodged a report stating that the marriage of his sister was solemnized with the petitioner-A1 in March, 2024. He was also residing along with them for the past two months. His brother-in-law, petitioner herein, went to his native place on 01.07.2024 for Ashadamasam. From then, the *de facto* complainant along with his sister and grandmother was residing in the said house. On 24.07.2024 night, they had their dinner and slept. At about 23.40 hours, his grandmother woke him up and informed that his sister consumed something and was unable to breath. Immediately, he shifted his sister to Yashoda Hospital, Hi-tech City. But, while undergoing treatment, she died. He stated that his sister might be

mentally depressed and consumed Vasmol Kesh Kala, which was used for dying the hair and that he was not suspecting any foul play behind the death of his sister. The case was registered initially under Section 194 of BNSS and subsequently, after recording the statements of the witnesses and basing on the statement of the doctor of Omni Hospital – LW6, who treated the petitioner-A1 and stated that A1 was not capable to have sex and after collecting the medical reports of A1, the Police altered the Section of law and effected the arrest of A1 and A2 on 30.09.2024.

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 petitioner was not present at the time of the alleged incident. He went to his native place Nellore. The doctor, shown as LW.6, was a private practitioner. The parents of the petitioner were shown as A2 and A3. The mother of the petitioner, shown as A3, was granted anticipatory bail on 17.10.2024 and the father of the petitioner, shown as A2, was granted regular bail on 24.10.2024, and prayed to enlarge the petitioner on bail.

5. Learned Additional Public Prosecutor opposed grant of bail to the petitioner.

6. Considering the facts and circumstances of the case that the petitioner was not even present at the time of the alleged incident and he was at Nellore when the deceased consumed the poisonous substance and the allegations that the petitioner was not being capable to have sex could not be considered as abetment to commit suicide attracting the offence under Section 108 of BNS or harassing her to attract the offence under Section 85 of the BNS and even if the petitioner had suppressed the fact of his impotency and married the deceased, it would only attract the offence under Section 318(4) of BNS, the punishment for which is only 7 years of imprisonment and the petitioner is entitled to be issued a notice under Section 35 of the BNSS and the petitioner was in custody for the past 57 days since his arrest on 30.09.2024, it is considered fit to enlarge the petitioner on regular bail.

7. In the result, this Criminal Petition is allowed, directing the petitioner – accused No.1 to be released on bail subject to the following conditions:

- i) The petitioner - accused No.1 shall execute a personal bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties for a likesum each to the satisfaction of the IV Additional Junior Civil Judge cum XV Additional Metropolitan Magistrate, Kukatpally, Cyberabad.
- ii) The petitioner – accused No.1 shall abide by the conditions stipulated in Section 480 (3) of Bharatiya Nagarik Suraksha Sanhitha, 2023.

Miscellaneous applications, if any, pending, shall stand closed.

November 27, 2024
KTL

Dr. G. RADHARANI, J