

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CRIMINAL PETITION No.4279 OF 2022

ORDER:

Petitioner, Accused No.1 in Crime No.516 of 2020 of IV Town Police Station, Visakhapatnam District, filed this Criminal Petition under Section 438 Cr.P.C., seeking pre-arrest bail.

2. The case of the prosecution, in brief, is that the complainant is father-in-law of the petitioner herein. Marriage between the petitioner and the deceased was solemnized on 06.06.2018. After marriage, she revealed that she is not interested to marry the deceased and only under pressure of her parents, she married him. Petitioner used to quarrel with the deceased and used to annoy him before his friends and others. It is alleged that earlier to the marriage the petitioner is having relationship with one Ravi and both of them harassed the deceased physically and mentally and forced him to commit suicide on 31.03.2019 by dashing his vehicle to the divider.

Initially Police registered Crime No.166 of 2019 of IV Town Police Station, Visakhapatnam, dated 31.03.2019 for the offences punishable under Section 304(A) of IPC. Later father of the deceased filed Protest Petition and the same was referred to the Police. Basing on the same, Crime No.516 of 2020, dated 16.11.2020 of the same Police Station was registered for the offences punishable under Sections 306 and 508 read with 120b IPC and 156(3) Cr.P.C.

3. Heard Smt. Prameela, learned counsel, representing Sri Kuriti Bhaskara Rao, learned counsel for the petitioner and Sri Soora Venkata Sainath, learned Special Assistant Public Prosecutor for respondent-State.

4. Learned counsel for the petitioner would submit that after the death of her husband, the petitioner gave a complaint to the Police against her in-laws on 02.06.2020 and the same was registered as Crime No.314 of 2020 of Dwaraka Police Station, Visakhapatnam City, for the offences punishable under Section 498-A of IPC and as a counter blast to the said complaint, the present Crime was got registered by the father-in-law of the petitioner. Hence, sought for grant of pre-arrest bail.

5. Learned Special Assistant Public Prosecutor opposed the petition on the ground that serious allegation of instigation to commit suicide is alleged against the petitioner and also on the ground that investigation is still pending. Hence, prayed for dismissal of the petition.

6. I have perused the entire record and anxious consideration is given to the material therein and to the contentions of both the counsel.

7. Going by the material filed along with the bail petition, after the death of husband of the petitioner, Crime No.314 of 2020 was got registered by the petitioner on 02.06.2020 for the offence under Section 498-A IPC. After filing of the said complaint, father-in-law of the petitioner filed Protest Petition on 29.10.2020 and it was referred to the Police and the Police, basing on the Protest Petition, registered Crime No.516 of 2020 for the offences punishable under Sections 306 and 508 read with 120b IPC and 156(3) Cr.P.C.

In **Geo Varghese v. State of Rajasthan and Another's** case, the Hon'ble Supreme Court held as under:

"23. What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased."

In the present case, going by the complaint, specific allegation was made that A1 and A2 harassed the deceased physically and mentally. In view of the above law laid down by the Hon'ble Supreme Court, mere allegation of abetment to harass will not suffice to attract ingredients of Section 306 of IPC.

Section 306 IPC reads as under :

"**306.** Abetment of suicide - if any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

In Criminal Application (Apl) No.547 of 2017 the High Court of Judicature at Bombay, Nagpur Bench, Nagpur held that an abetment

accused in aiding or instigating or abetting the deceased to commit suicide, the said person cannot be compelled to face a trial.

The Hon'ble Apex Court in **M. Mohan v. State of Tamilnadu**¹ while dealing with ingredients of Section 306 of IPC held as under:

"Before holding an accused guilty of an offence under Section 306 of IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative, but to commit suicide. It is also to be borne in mind that in cases of alleged abetment of suicide, there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 of IPC is not sustainable".

A perusal of the complaint does not indicate either instigation or abatement of the petitioner to the deceased to commit suicide. On the other hand, after the death of the deceased, in view of the disputes between the petitioner and her in-laws, she got registered Crime No.314 of 2020 under Section 498-A IPC and after that her father-in-law filed Protest Petition, which lead to registering Crime No.516 of 2020 i.e. the present crime. Since, the chronology of events show that the prosecution failed to prove *prima facie* case against the petitioner under Section 306 IPC and in view of the observations made by the Hon'ble Supreme Court in decisions cited *supra* this Court is inclined to grant pre-arrest bail to the petitioner, on the following conditions:

- (i) The petitioner shall be released on bail in the event of her arrest in connection with Crime No.516 of 2020 of IV Town Police Station, Visakhapatnam District, on her executing a self bond for Rs.30,000/- (Rupees fifty thousand only) with two sureties for a like sum each to the satisfaction of the Station House Officer, IV Town Police Station, Visakhapatnam District;
- (ii) The petitioner shall cooperate with the investigation; and
- (iii) The petitioner shall not influence the witnesses and tamper the evidence.

The petitioner shall scrupulously comply with the above conditions and any infraction of the same will be viewed seriously and it also entails cancellation of bail.

08. It is made clear that this order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law and the finding in this order be construed as expression of opinion only for the limited purpose of considering the anticipatory bail in the above crime and shall not have any bearing in any other proceedings.

Accordingly, the Criminal Petition is **allowed**.

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI

5th August, 2022

GBS