

HIGH COURT OF ANDHRA PRADESH**Bench: Justice T. Mallikarjuna Rao****Date of Decision: 18th June 2024**

Case No. : CRIMINAL PETITION NO: 3273/2024

APPELLANT(S):**JALLEPALLI SRINIVASA RAO ...Petitioner/Accused(s)****VERSUS****RESPONDENT(S):****STATE OF ANDHRA PRADESH, ...Respondent/Complainant****Legislation:**

Sections 304-B, 498-A read with 34 of the Indian Penal Code (IPC)

Section 438 of the Code of Criminal Procedure (Cr.P.C.)

Subject: Criminal petition filed under Section 438 of the Cr.P.C. seeking anticipatory bail in a case involving alleged dowry harassment leading to the suicide of the deceased.

Headnotes:

Anticipatory Bail – Dowry Death – Petitioners seeking anticipatory bail under Section 438 of Cr.P.C. – Allegations of dowry harassment leading to suicide – Petitioners A.4 and A.5, relatives of A.1 (husband) – Petitioners assert no involvement in marital disputes or the alleged harassment – Opposed by Prosecution on grounds of ongoing investigation – Court examines role, accusations, and material on record – Finds no prima facie evidence linking petitioners directly to harassment – Emphasizes principles of bail, liberty under Article 21 of the Constitution – Petitioners’ cooperation with investigation noted – Orders anticipatory bail with conditions [Paras 1-15].

Bail Principles – Liberty and Presumption of Innocence – Court underscores importance of liberty and presumption of innocence – Arrest as a last resort – Right to bail as fundamental – Court criticizes indiscriminate arrests without

adequate cause – Necessity of careful and cautious exercise of power to authorize detention – Ensures protection of personal liberty [Paras 6-9].

Decision – Anticipatory Bail Granted – Court directs petitioners to surrender before the Station House Officer, Nallapadu Police Station within two weeks – Conditions imposed for cooperation with investigation, including regular appearance and non-interference with witnesses – Observations limited to anticipatory bail decision, not indicative of case merits – Petition allowed, pending miscellaneous applications closed [Para 14-15].

Referred Cases:

- Shambhu Nath Mehra v. The State of Ajmer, AIR 1956 SC 404
- Trimukh Maroti Kirkan v. State of Maharashtra, (2006) 10 SCC 681
- State of W.B. v. Mir Mohammad Omar and Ors., (2000) 8 SCC 382
- Zahira Habibulla H. Sheikh & Anr. Vs. State of Gujarat & Ors., (2004) 4 SCC 158
- Vishal Singh v. State of Rajasthan, (2009) Cri. LJ 2243
- Kikar Singh v. State of Rajasthan, AIR 1993 SC 2426

Representing Advocates:

For Petitioner: Penumaka Venkata Rao

For Respondent: Public Prosecutor (AP)

ORDER :

1. This Criminal Petition is filed by the petitioners/A.4 & A.5, under Section 438 of Code of Criminal Procedure (for short 'Cr.P.C.'), seeking anticipatory bail in Crime No.169 of 2024 of Nallapadu Police Station, for the offence under Section 304-B, 498-A read with 34 of Indian Penal Code (for short 'IPC')
2. Heard learned counsel for the petitioners/A.4 & A.5 and the learned Assistant Public Prosecutor representing the respondent/State.
3. The Prosecution's case is that the defacto complainant performed his deceased daughter's marriage with A.1, providing a dowry of one acre of agricultural land and ten savers of gold. Subsequently, the couple was

blessed with two sons. Disputes ensued between the deceased and A.1, allegedly leading to unbearable harassment that ultimately resulted in the deceased committing suicide.

4. Learned counsel for the petitioners argues that the petitioners have no connection to the alleged offence in question. The 1st petitioner is the brother of the deceased's father-in-law, while the 2nd petitioner is the wife of the 1st petitioner. Both petitioners assert that they are not involved in the family matters of the deceased and A.1.
5. Learned Assistant Public Prosecutor opposes to grant anticipatory bail on the ground that investigation is not completed.
6. It is settled law that while considering the prayer for grant of anticipatory bail, the accusation's nature and gravity and the accused's exact role must be properly comprehended before arrest is made. If there is some doubt as to the genuineness of the Prosecution, the ordinary course of events is that the accused is entitled to an order of anticipatory bail. The Court must adequately exercise its jurisdiction to protect the personal liberty of a citizen. It is also a well-accepted principle that bail is the rule and the jail is the exception. Arrest should be the last option, and it should be restricted to those exceptional cases where arresting the accused is imperative based on the facts and circumstances of that case.
7. This Court views the power to authorize detention as a very solemn function. It affects the liberty and freedom of citizens and needs to be exercised with great care and caution. The attitude of arresting first and then proceeding with the rest is despicable. It has become a handy tool for police officers who lack sensitivity or act with oblique motives.
8. The law presumes an accused to be innocent until his guilt is proven. As a presumably innocent person, he is entitled to all the fundamental rights, including the right of liberty, guaranteed under Article 21 of the Constitution of India.
9. The material on record indicates that the marriage between the deceased and A.1 occurred on 04.04.2018. According to the complaint, marital disputes between A.1 and the deceased regarding loan transactions were brought before elders for resolution. A.1 subsequently moved a regular bail application before the Sessions Court, and a copy of the bail order in CrI.M.P.195 of 2024 dated 20.03.2024 has been presented before the Court. The said Order shows that A.1 was remanded

to judicial custody on 27.02.2024; the learned Sessions Judge was pleased to grant bail to A.1. The *defacto* complainant is the deceased's father. Paragraph No.7 of the Order in CrI.M.P.No.195 of 2024 shows that the compromise arrived between the *defacto* complainant and the accused; despite the offence under section 304-B of IPC being non-compoundable, the trial court considered the compromise and was pleased to grant bail to A.1.

10. In light of this, this Court has reviewed the material on record independently, without relying on the bail order passed by the learned Sessions Judge. The learned counsel for the petitioners contends that no specific allegations, *prima facie*, have been presented against the petitioners that would hold them responsible for the deceased's death. It appears that at the time of the deceased's marriage alliance, A.1's parents informed the deceased's family that A.1 was working under the 1st petitioner (A.4). Additionally, it seems that the deceased received troubling messages from lenders regarding A.1's loan transactions, leading to a dispute that was brought before elders for resolution. In connection with this dispute, there is an allegation that A.1's parents and the petitioners began harassing the deceased. Except this accusation, no other accusations have been levelled against these petitioners. Furthermore, the report does not indicate that these petitioners reside with the deceased and A.1.

11. It is not the Prosecution's case that the Petitioners did not cooperate with the investigation and are not available for interrogation. There is no indication of a likelihood that the Petitioners would abscond from the Court's jurisdiction. The Petitioners have expressed willingness to cooperate with the investigation agency. The object of the bail is neither punitive nor preventative. The likelihood of levying accusations to harm or embarrass the Petitioners through potential arrest is not improbable.

12. Given the facts and circumstances of the case coupled with the *prima facie* analysis of the nature of allegations and the other factors peculiar to this case, this Court views that even if the Petitioners are granted pre-arrest bail, there cannot be any apprehension for the Prosecution that they will tamper with the evidence. As submitted by the learned counsel for the petitioners, the possibility of filing this case to settle the family disputes regarding the properties cannot be ruled out.

The petitioners are not residing with the deceased, and A.1, the possibility of implicating the petitioners as close relatives of the father-in-law of the deceased also cannot be ruled out. It is submitted that the petitioners have a permanent abode at Gorantla in Guntur, and there is no possibility of their fleeing away from the jurisdiction of the Court. When ascertained, the learned Assistant Public Prosecutor submitted that no antecedents had been reported against the Petitioners according to his instructions. The facts do not warrant custodial interrogation of the Petitioners in the nature of the accusations.

13. At this stage, the allegations against the Petitioners are subjected to the trial's outcome. It is settled law that mere apprehension that the accused would tamper with the prosecution evidence or intimidate the witnesses cannot be a ground to refuse bail unless the prosecution shows that the accused tried for such tampering/intimidation. Granting anticipatory bail to the Petitioners would not impede the ongoing investigation.

14. Upon careful review of the available material, as there is no risk of interference with the ongoing investigation by the Petitioner, this Court finds that anticipatory bail can be granted to the Petitioners/A.4 and A.5 under certain conditions:

- i. The petitioners/A.4 & A.5 are directed to surrender before the Station House Officer, Nallapadu Police Station, within two weeks from today, and they shall be released on bail, on their furnishing personal bond for Rs.25,000/- (Rupees twenty-five thousand only) each with two sureties for the like amount each, to the satisfaction of Station House Officer concerned; and
- ii. After their release, the 1st petitioner/A.4 shall appear before the Station House Officer concerned once in a fortnight, i.e., on every 2nd and 4th Sunday in a month between 10.00 a.m. and 1.00 p.m., for three (03) months; and
- iii. The 2nd petitioner/A.5 is directed to appear before the Investigating Officer as and when her presence is required and
- iv. The petitioners/A.4 & A.5 shall not, directly or indirectly, induce, threaten, or promise any person acquainted with the facts of the case to dissuade them from disclosing such facts to the Court or any

Investigating or Police Officer and shall cooperate with the investigating officer.

15. It is explicitly clarified that the observations made in this Order are preliminary and pertain solely to the decision on the present application without indicating a stance on the case's merits. The Investigating Agency is affirmed to have the freedom to investigate without being influenced by the observations in this Order.

Pending miscellaneous applications, if any, shall stand closed.

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