

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL PETITION No.1617 of 2015

ORDER:

The petitioner, who is the sole accused, filed the present application under Sections 437 and 439 Cr.P.C. seeking enlargement on bail in Crime No.304 of 2014 of Mangalagiri Rural Police Station, Guntur District, registered for the offences punishable under Section 376 (2)(j) and Section 376 (2)(l) of IPC.

The case of the prosecution is that the informant who is the mother of the victim is having four sons and three daughters. Three sons and two daughters of the informant are deaf and dumb, while the remaining are healthy and got married. The victim in the present case, who is aged about 19 years is deaf and dumb. It is stated that on 01.10.2014 at about 04.00 p.m., the informant sent her daughter to bring soap from the shop. When she did not return even after a lapse of long time, the informant went in search of her daughter. She noticed her daughter's slippers outside the house of the petitioner. On suspicion, she went inside the house and found the petitioner committing the offence by closing the mouth of the victim. At that time, the informant is alleged to have raised her voice for help. On seeing the informant and another, the petitioner is alleged to have left the victim and escaped from the place. Basing on these allegations, the present case came to be registered.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor.

Learned counsel for the petitioner submits that as the petitioner is in jail from 07.10.2014 and since charge sheet is also filed, he seeks

release on bail.

Learned Public Prosecutor opposed the application contending that in the offence of this nature, the period of detention cannot be a criteria for release on bail.

As stated above, the victim in the present case is deaf and dumb. She was taken into the house and was forcibly subjected to sexual assault. The mother of the victim and the neighbour who went in search of the victim saw the incident and when they raised cries, the petitioner is alleged to have escaped from the scene. No motive can be attributed to foist a false case against the petitioner.

As per **“Section 376 (2)(j)**

Whoever commits rape, on a woman incapable of giving consent

or

(I) commits rape on a woman suffering from mental or physical disability,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.”

As the offence was committed taking advantage of the disability of the girl and this being a grave offence punishable with minimum imprisonment of ten years, I am not inclined to grant bail to the petitioner.

Accordingly, the Criminal Petition is dismissed.

C.PRAVEEN KUMAR, J

10.03.2015
vhb