

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.10580 of 2015

ORDER :

This Criminal Petition is filed under Sections 437 and 439 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') by the petitioner/accused to enlarge on bail in connection with Crime No.45 of 2015 of Muvvalavani Palem Police Station, Visakhapatnam District, registered for the offence punishable under Section 376 IPC.

2. The case of the prosecution is that the victim girl by name Shruti Yadav and the petitioner/accused are law students. The victim girl is studying first year law, whereas the petitioner is prosecuting fourth year law in the Damodaram Sanjiviah National Law University, Visakhapatnam. On 19.08.2015 at about 8:00 p.m., the victim girl went to the flat of Mansi Singh, one of her friends, at MVP Colony near Akshaya Hostel, where there were six students in the flats and after drinking, three persons went into their rooms, but the victim girl, the petitioner and Mansi Singh stayed in the hall and she slept with the petitioner. When they were in deep sleep during mid night, the petitioner tried to commit sexual activity against the victim girl, despite her resistance and move away from him, but the petitioner did not allow her to go and later he had sexual intercourse with her. Thus, the petitioner is alleged to have committed a grave offence of rape against the victim girl.

3. Learned counsel for the petitioner drawn the attention of this Court to the statement of Mansi Singh, who was allegedly present, recorded by the Gender Redressal Committee of the University on 20.08.2015, so also the contents of the complaint. It is no doubt true, the petitioner and victim girl are students and majors. In normal course of event when gents are staying in a hostel, a lady student is not supposed to go to such hostel and stay during night. On the other hand, the statement recorded by the Gender Redressal Committee is also pointing out that the victim girl did not raise any cries during the

alleged incident. Apart from that, the statement of Mansi Singh recorded by the Police and the statement of the same person recorded by the Gender Redressal Committee shows otherwise. Therefore, the material at best disclosed that the victim girl and the petitioner had sexual intercourse, but according to her she did not give consent. At this stage, it is not possible to decide whether the incident took place with or without consent. Prima facie, the victim girl visiting the flat of Mansi Singh, occurrence of the incident against her consent and maintaining silence throughout the incident create any amount of suspicion. Apart from that, the petitioner was in judicial custody since 21.08.2015 and the case diary discloses completion of entire investigation. Therefore, the question of interfering with further investigation in the event of enlarging the petitioner does not arise and that too, prima facie the occurrence of the incident is doubtful, without the consent of the victim. The petitioner is fourth year student of law prosecuting studies in premier institute of law. Taking into consideration of the stage of investigation and other changed circumstances, I find that it is a fit case to enlarge the petitioner on bail.

In the result, the criminal petition is allowed and the petitioner/accused is enlarged on bail on his executing a personal bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties for a like sum each to the satisfaction of the IV Additional Chief Metropolitan Magistrate, Visakhapatnam and on further condition that the petitioner shall stay at Visakhapatnam, for a period of two months or till completion of entire investigation, whichever is earlier.

M. SATYANARAYANA MURTHY, J

19th October 2015.

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