

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 3230 of 2015

ORDER :

The petitioner, who is A-5 in Crime No. 315 of 2014 of Pahadisharief Police Station, Cyberabad, filed the present application under Sections 437 and 439 Cr.P.C. seeking enlargement on bail in the above crime registered for the offences punishable under Sections 448, 323, 354, 382, 506, 509 r/w Section 34 IPC.

The gist of the allegations made in the charge sheet are as under:

L.W.1 is a resident of Keshavagiri, Chandrayangutta, Hyderabad and L.W.2 is a friend of L.W.1. L.W.3, who is a watchman, was examined as an eyewitness to the incident, while L.Ws.4 to 8 were examined as circumstantial witnesses. A.1 is alleged to be the leader of the incident. A.2 to A.7 were his associates, while A.8 and A.9 harboured A.1 to A.7. On 31.07.2014 L.Ws.1, 2, 4, 6 and 7 went to a farm-house in two cars. After some time, all of them left the farm-house except L.Ws.1 and 2. On coming to know about the same, A.1 to A.7 criminally trespassed into the said farm-house, started beating L.Ws.1 and 2 and took photographs by removing their clothes. L.W.2 is a girl aged about 18 years while L.W.1, who is a student, aged about 18 years. A.1 to A.7 are alleged to have taken videos and photographs in their mobile phones and threatened L.Ws.1 and 2 of uploading them in face book. A.1 to A.4 are alleged to have sexually assaulted L.W.2. Further, A.1 to A.7 are alleged to have robbed gold chain, gold ring and cash of Rs.6,000/- from L.Ws.1 and 2 before leaving the scene. On 11.08.2014 the petitioner surrendered before the Court. On 28.08.2014 A.1 to A.9 were taken to police custody vide Court orders and were examined in the presence of L.Ws.15 and 16. After completing the investigation, the police filed a charge sheet.

Learned counsel for the petitioner submits that even accepting the allegations in the charge sheet to be true, no offence is made out against the petitioner. According to him, the petitioner, who is aged about 19 years, is not a habitual offender and eking out his livelihood by doing plumbing work. He submits that except the recovery of goggles, there is no other material connecting the petitioner

with the crime and the statement of L.W.2, the victim girl, refers only to A.1 to A.4.

Learned Additional Public Prosecutor opposed the application contending that the allegations made in the charge sheet are grave and serious in nature and it will not be proper for this Court to grant bail to the petitioner, as there is every likelihood of he threatening L.Ws.1 and 2.

A perusal of the statement of L.W.1 would show that on the date of incident, while he along with L.W.2 were in the farm-house, A.1 to A.7 trespassed into the premises, beat them with hands and took photographs by removing their clothes. A.1 to A.7 also took videos and photographs in their mobile phones and threatened L.Ws.1 and 2 of uploading them in face book. A.1 forced L.W.2 to participate in sexual intercourse by threatening with a live snake. When L.W.3 came to the spot, they forcibly snatched an amount of Rs.6,000/-, two pairs of gaggles and car keys from them before leaving the scene. The statement of L.W.2 would show that A.1 sexually assaulted her while A.2 to A.4 caught hold of L.W.1 and later A.2 to A.4 committed rape on her one after another. While leaving the scene, A.1 to A.7 threatened to put the videos and photos in the social network sites, if the incident is disclosed to others. Basing on the statement of L.W.2, the sections of law were altered to 452, 376(D), 323, 395, 506(ii), 34 IPC r/w 212, 411 IPC. Earlier A.6 filed CrI.P.No.2156 of 2015 seeking bail. After considering the rival arguments and taking into consideration the material available on record, this Court rejected the said application. Since the petitioner stands on the same footing as that of A.6; as the offences alleged are grave and serious in nature and taking into consideration the apprehension expressed by learned Additional Public Prosecutor that if the petitioner is released on bail, there is every likelihood of he threatening L.Ws.1 and 2, I am not inclined to grant bail to the petitioner at this stage.

Accordingly, the Criminal Petition is dismissed. As the charge sheet is already filed, the learned Magistrate is directed to commit the case to the Court of Sessions forthwith and thereafter the learned Sessions Judge is advised to proceed with trial and dispose of the case at the earliest. The petitioner is at liberty to renew his request after examination of L.Ws.1 and 2.

JUSTICE C. PRAVEEN KUMAR

15th April, 2015

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