

**THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**  
**CRIMINAL PETITION No.1453 OF 2016**

**ORDER:**

The petitioner, who is an Accused in Crime No.9 of 2016 of Tandur Police Station, Ranga Reddy District, filed the present application under Section 438 CrPC., seeking release in the event of his arrest in connection with the above crime registered for the offences punishable under Sections 417 and 420 of IPC.

The case of the prosecution is as under :

The informant who is aged about 19 years states that while working in a Canteen, developed acquaintance with the petitioner, who used to talk with her and follow her, stating that he is in love with her. When she expressed that she belong to Muslim Religion and that her parents will not agree for the same, he accepted to covert himself into her Religion and marry her for which she agreed. Thereafter he cohabited with her on a promise that he would marry her. When it came to the notice of her brother by name Buran, there was a quarrel between him and the petitioner and then the brother of the informant left the home. At that point of time the owner of the house asked the informant to vacate

the house. The petitioner herein took her to his house but his mother did not accept her. The petitioner is alleged to have promised to marry her after completing his studies and on such false promise he had physical contact with her. It is alleged that the petitioner is now refusing to marry her on the ground that the informant has developed illegal contacts. On one occasion, he also kept her in a polish room belonging to his friends and threatened her not to disclose the love affair and that if she disclose to anyone he will pour kerosene on her and lit fire. Basing on these allegations the above case came to be registered.

The learned counsel for the petitioner mainly submits that the allegations made in this case are all false and invented for the purpose of this case. It is said that because of enmity between the brother of the informant and the petitioner, the present case came to be filed.

On the other hand, the learned Additional Public Prosecutor opposed the application.

Though the learned counsel for the petitioner tried to argue that ingredients constituting the offence under Section 420 IPC are not made out, but the issue as to whether the case falls within the parameters of Section 420 IPC or not has to be decided during the course of trial. At this stage, it

cannot be said that the ingredients constituting offence under Section 420 IPC are not made out, for the reason that the petitioner sexually cohabited with the informant on a promise that he would marry her. Further, whether the representation made by the petitioner promising to marry her was to the knowledge of the petitioner at the time it was made is a matter which cannot be adjudicated at this point of time so as to come to the conclusion that ingredients constituting the offence of Sections 417 and 420 IPC are not made out. In fact in **Deepak Gulati v. State of Haryana**<sup>[1]</sup> the Apex Court while considering the entire evidence on record made a distinction between mere breach of a promise, and not fulfilling a false promise. It was held that there must be adequate evidence to show at the relevant time i.e., at the initial stage itself, the accused had no intention whatsoever, of keeping his promise of marry the victim. But since the case is still at inception, it may not be permissible to give any finding on this aspect.

But, from the material on record, more particularly the statement of the victim girl, it can be said that the accused *prima facie* had a dishonest intention to cheat the victim as he himself wants to convert into her Religion and after enjoying her now throwing blame on the victim girl stating

that she has illegal contacts with others.

In view of the above, I am not inclined to grant anticipatory bail to the petitioner. However, the petitioner is directed to surrender himself before the Court of Judicial First Class Magistrate, Ranga Reddy District at Tandur, as all the offences alleged against him are triable by Magistrate, and move an application for regular bail by giving prior notice to the learned Public Prosecutor concerned, and in such an event, the same shall be dealt with in accordance with law.

With the above direction, the criminal petition is disposed of.

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**JUSTICE C. PRAVEEN KUMAR**

Dt:17.02.2016

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[\[1\]](#) (2013)7SCC 675