

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.10907 of 2016

ORDER:

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The petitioner, who is the sole accused in Crime No.312 of 2016 of Karimnagar I Town Police Station, Karimnagar District, filed the present application under Section 438 of the Code of the Criminal Procedure (Cr.P.C.), seeking release in the event of his arrest in connection with the above crime registered for the offences punishable under Sections 354(a) and (d) of IPC and Section 12 of POCSO Act.

It is to be noted that as per Section 354 A of IPC, any man who commits the offence specified in clauses (i), (ii) and (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both and it is a bailable offence. Insofar as Section 354 D (2) of IPC is concerned, whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine and it is bailable offence for first conviction and non-bailable offence for second or subsequent conviction.

Learned counsel for the petitioner states across the Bar that the petitioner is involved in the case for the first time.

Section 12 of the POCSO Act states that whoever, commits sexual harassment upon a child shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine. Further, in

Amarnath Vyas Vs. State of A.P. ^[1] this Court, while dealing with an issue which is identical to Section 12 of POCSO Act, held that “the expression ‘imprisonment for a term which may extend upto three years’, as used in Section 63 of Copyright Act, would not come squarely within the expression ‘imprisonment for three

years and upwards' as given in part II of Schedule I of Cr.P.C. Therefore, the offence punishable under Section 63 of the Copyright Act cannot be considered as 'non-bailable' one".

Since all the offences alleged are bailable in nature, the question of granting anticipatory bail would not arise and hence the request of the petitioner is rejected.

Accordingly, the criminal petition is dismissed.

**JUSTICE C. PRAVEEN
KUMAR**

05.08.2016
vnb

[\[1\]](#) 2007 CrLJ 2025