

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8295 of 2017

ORDER:

This criminal petition is filed by the sole accused, under Sections 437 and 439 of Cr.P.C., seeking bail in Crime No.259 of 2017 on the file of the Station House Officer, Bommuru Police Station, Rajamahendravaram Urban, for the offences punishable under Sections 417 and 376 of IPC.

2. The learned counsel for the petitioner strenuously submitted that the *de facto* complainant filed false case against the petitioner. He further submitted that even if the allegations made in the complaint are *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioner for the offence under Section 376 of IPC. *Per contra*, learned Additional Public Prosecutor representing the State submitted that the allegations made in the complaint *ex facie* constitute the offences alleged to have been committed by the petitioner.

3. The case of the prosecution is that the petitioner sexually enjoyed the *de facto* complainant by making false promise that he will marry her. The gist of the allegations made in the complaint is that the petitioner cheated the *de facto* complainant. Basing on the complaint lodged by the *de facto* complainant, the above case was registered. The petitioner was arrested on 16.8.2017 and produced before the concerned for judicial custody.

4. The petitioner filed CrI.M.P.No.1089 of 2017 on the file of the Court of Special Judge for Trial of Cases Under S.Cs & S.Ts (P.o.A) Act-cum-X Additional District and Sessions Judge, East Godavari District, Rajamahendravaram, under Section 439 of Cr.P.C., and the same was dismissed on 28.8.2017.

5. A perusal of the record *prima facie* reveals that the petitioner developed intimacy with the *de facto* complainant and enjoyed her sexually. Whether the alleged act of the petitioner comes under the purview of Section 376 of IPC or not will come to light during the course of investigation. The investigation is in progress. As rightly contended by the learned Additional Public Prosecutor, if the petitioner is released on bail, the possibility of tampering with the prosecution evidence cannot be ruled out.

6. Taking into consideration the gravity of the offence and the stage of the investigation, this court is of considered view that it is not a fit case to grant bail to the petitioner.

7. Accordingly, the criminal petition is dismissed.

T.SUNIL CHOWDARY, J

September 13, 2017
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