

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.5403 of 2017

ORDER:

The present petition is filed for grant of regular bail under Sections 437 and 439 of the Code of Criminal Procedure, 1973 by the petitioner who is A.1 in Cr.No.74 of 2017 on the file of Tadvai Police Station, Jaya Shanker Bhopalapalli District, who alleged to have committed offences punishable under Sections 366 and 376 of the Indian Penal Code, along with A.2, who is not party to the present petition.

Heard Sri M.Saleem, learned counsel for the petitioner and the learned Additional Public Prosecutor for the State of Telangana.

Learned counsel for the petitioner pleads innocence and false implication of the petitioner. According to the learned counsel, the alleged victim belongs to *Gutti Koya* caste and the Forest Department intended to remove their habitations in the area and provided for rehabilitation somewhere else outside the forest area. Learned counsel has also drawn attention to some of the letters/correspondence between forest officials inter se. In one of the letters addressed by the Forest Range Officer, Tadvai, to the Forest Divisional Officer, Tadvai on 11.03.2017, it is stated that *Gutti Koyas* were removed from their huts and, at that time, there was lot of resistance from them and they even attacked the forest staff, especially the women folk, being very aggressive, and the situation was going beyond control and had turned out to be an issue of law and order. When the same was brought to the notice of the Forest Range Officer, he visited along with his staff and C.R.P.F. personnel and successfully relocated the *Gutti Koyas*

to the revenue area of Chalcvai along with their household items by transporting them in tractors.

The learned counsel also points out yet another letter, which is also dated 11.03.2017, addressed by the Forest Range Officer, Tadvai to the Forest Divisional Officer, Tadvai, stating that she, along with the Mandal Revenue Officer, Pasra proceeded to Devunigutta Guthikoya hamlet in 304 compartment of Lawal beat of Lawal section and conducted motivational class to the *Gutti Koyas* and tried to convince them to shift from reserve forest area to the revenue area and even after long session, they did not want to leave the forest area and, on the other hand, stated that they prefer to die, but did not want to get relocated to revenue land. These are all pointed out by the learned counsel for the petitioner in an attempt to impress upon this Court that there was motive for false implication of the petitioner and the other accused. His submission is also based on a preliminary medical report given by the Civil Assistant Surgeon, Maternity Hospital, relating to the victim. Learned counsel for the petitioner lays emphasis on the observations of the Medical Officer and would contend that the said observations would completely rule out taking place of any sexual abuse, as no injuries were sustained nor found by the Medical Officer on the person of the victim.

Learned Additional Public Prosecutor would strongly resist the submissions made by the learned counsel for the petitioner, contending that the correspondence placed before the Court has nothing to do with the allegations in the complaint as to the sexual abuse attributed to the petitioner. According to the learned Additional Public Prosecutor, investigation is yet to be completed and the report of the FSL is awaited and,

therefore, it is not desirable to grant bail to the petitioner in a case of heinous crime being alleged.

The correspondence pointed out by the learned counsel for the petitioner would relate to the months of March and May, 2017 and the offence alleged to have taken place on 09.06.2017. When there are specific allegations in the complaint as to the commission of a heinous crime, the correspondence referred to, would not gain any precedence, but, of course, some weight can be given to the Medical Certificate produced, but, however, subject to the report of the analyst to be received, in the direction of whether there are any incriminating circumstances have been found or not. In such an event, certainly, the request of the petitioner for grant of regular bail cannot be acceded to.

The petition is, therefore, dismissed.

A. SHANKAR NARAYANA, J

July 11, 2017
MRR

