

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8657 of 2017

ORDER:

This petition is filed, by the petitioner-accused, under Sections 437 and 439 Cr.P.C., seeking bail in Crime No.151 of 2017 on the file of the Station House Officer, Dharmasagar Police Station, Warangal City, registered for the offences punishable under Sections 376(2)(n), 420 and 417 I.P.C., and Section 3 read with 4 of the Protection of Children from Sexual Offences Act.

2. The learned counsel for the petitioner submitted that the *de facto* complainant is major; therefore Sections 3 and 4 of Protection of Children from Sexual Offences Act is not applicable to the facts of the case. He further submitted that the material witnesses were examined; therefore, it is a fit case to grant bail to the petitioner.

3. The learned Additional Public Prosecutor submitted that as per the school record, the *de facto* complainant is minor. He further submitted that the investigation is in progress; therefore, it is not a fit case to grant bail to the petitioner.

4. The case of the prosecution is that the petitioner made a false promise to the *de facto* complainant that he will marry her and enjoyed her sexually. It is the further case of the prosecution that the petitioner cheated the *de facto* complainant.

5. The petitioner filed CrI.M.P.No.606 of 2017 on the file of the Court of the Special Judge for trial of cases under Protection of

Children from Sexual Offences Act-cum-I Additional Sessions Judge, Warangal, and the same was dismissed on 06.09.2017.

6. While deciding the petitions filed under Section 439 Cr.P.C. the Court has to consider whether there is any *prima facie* material against the petitioner or not and the stage of investigation. If this Court expresses any opinion with regard to age of the *de facto* complainant, the same may cause prejudice to one of the parties to the proceedings. Whether the *de facto* complainant is major or minor will come to light during the course of investigation. The material placed before this Court *prima facie* reveals the role played by the petitioner in the commission of the offences. Moreover, the investigation is in progress. As rightly pointed out by the learned Additional Public Prosecutor, if the petitioner is released on bail at this stage, the possibility of threatening the *de facto* complainant cannot be ruled out completely.

7. Taking into consideration the gravity of the offences alleged to have been committed by the petitioner as well as the stage of investigation, this Court is of the considered view that it is not a fit case to grant bail to the petitioner.

8. Accordingly, the Criminal Petition is dismissed.

T.SUNIL CHOWDARY, J

Date: 21.09.2017
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