

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5473 of 2017

ORDER:

This criminal petition is filed, by the petitioner-accused No.1, under Section 438 Cr.P.C., seeking pre arrest bail in Crime No.22 of 2017 on the file of the Station House Officer, Women Police Station, Visakhapatnam, registered for the offences punishable under Section 498-A of IPC and Sections 3 and 4 of the Dowry Prohibition Act.

2. The learned counsel for the petitioner submitted that the *de facto* complainant foisted a false case against the petitioner for the reasons best known to her. 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. ***Per contra***, learned Additional Public Prosecutor representing the State submitted that the petitioner is not in India; therefore, it is not a fit case to grant pre arrest bail to the petitioner.

3. The facts leading to filing of the present criminal petition are as follows: Naga Durga Vasanthi Mittana is the *de facto* complainant. A perusal of the record reveals that the marriage of the *de facto* complainant was performed with the petitioner on 24.5.2013 in Novatel Hotel, Visakhapatnam, as per Hindu rites and caste customs. As per the prosecution version, at the time of the marriage, the parents of the *de facto* complainant gave Rs.10.00 lakhs cash and five (5) tulas of gold to the petitioner towards dowry. It is the further case that the petitioner subjected the *de facto* complainant to cruelty for additional dowry.

4. The petitioner along with accused Nos.2 and 3 filed CrI.M.P. No.1152 of 2017 under Section 438 of Cr.P.C., on the file of the Court of VI Additional District and Sessions Judge, Mahila Court, Visakhapatnam, and the same was allowed granting pre arrest bail to accused Nos.2 and 3 and the petition in so far as the petitioner-accused No.1 is concerned, is dismissed.

5. It is the prosecution case that the petitioner subjected the *de facto* complainant to cruelty both at Abu Dhabi and Visakhapatnam for additional dowry. The learned Additional Public Prosecutor submitted that the petitioner is not in India. The learned VI Additional District and Sessions Judge, Mahila Court, Visakhapatnam, while dismissing the petition filed by the petitioner under Section 438 Cr.P.C., directed the Station House Officer, Women Police Station, Visakhapatnam, to follow the guidelines issued by the Hon'ble apex Court in **Arnesh Kumar v. State of Bihar**¹. The record reveals that the investigation is in progress.

6. Taking into consideration the nature of the offences alleged to have been committed by the petitioner, this court is of the considered view that it is not a fit case to grant pre arrest bail to the petitioner.

7. In the result, the criminal petition is dismissed.

T.SUNIL CHOWDARY, J

August 17, 2017
YS

¹ (2014) 8 SCC 273