

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.6205 of 2017

ORDER:

Petitioners/A1 to A3 seek regular bail in Crime No. 87 of 2017 of Bhogapuram Police Station, Vizianagaram District, registered for the offences under Sections 376-D, 341, 506 r/w 34 IPC, Section 5 r/w Section POCSO Act, 2012.

2. The allegation is that the de-facto complainant, who is a minor girl living along with her 65 years old grand mother as she lost her parents and she was forcibly raped by the accused on 30.12.2016 while she went to eucalyptus garden for attending calls of nature. The victim girl became pregnant thereafter. The investigation is reported to be pending.

3. While denying allegations, bail is pleaded mainly on the submission that there was an inordinate delay of more than five months in lodging the FIR, which falsifies the version of the complainant.

4. Learned Public Prosecutor while opposing the bail would submit that investigation is pending and charge sheet is yet to be filed.

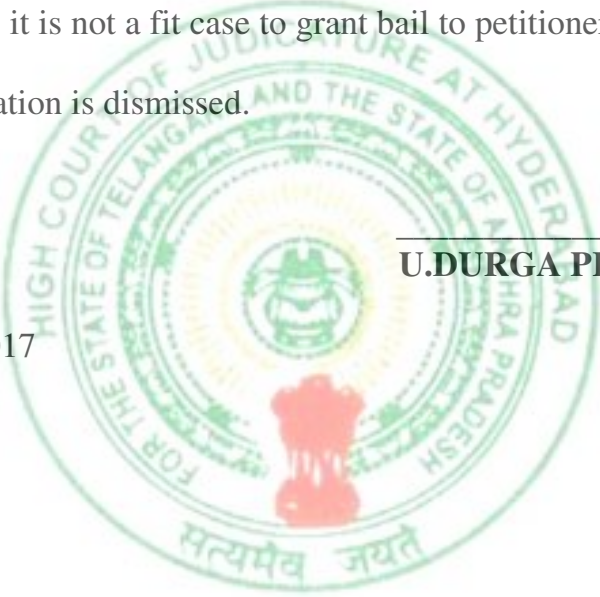
5. Perused the FIR CD file and also the citations submitted on behalf of the petitioners to buttress his argument that inordinate delay in filing FIR gives raise the suspicion about prosecution case. There is no demur

about the legal position that the delay in lodging FIR generally create suspicion about the veracity of prosecution case. However, it must be noted not every delay would automatically generate suspicion but only an un-explained delay to the satisfaction of the Court would give rise such a doubt. Delay is a question of fact which has to be cogently explained by the prosecution at the relevant stage of trial. Therefore, while considering the bail application, it is not opposite for the Court to make roaming enquiry on the aspect of delay and give some finding, which will have an impact on the trial.

6. As can be seen from the FIR, the victim studied 10th Class and lost her parents and living with her 65 year old granny. She was allegedly committed rape by the accused while she was going to attend calls of the nature. She did not report to anybody immediately as the accused threatened her with dire consequences if she dare reveal about the incident to others. Some time after, seeing the swelling in her abdomen, as she conceived, her grand mother questioned her and at that time she revealed. Thereafter, her grand mother conducted panchayat through elders twice, wherein the accused allegedly repudiated their responsibility. In those circumstances, the complainant reported to the police. Whether the explanation offered by the complainant is a plausible

one or not is to be decided in the light of the evidence produced by prosecution in the court but not at this stage. Therefore, this Court refrains from making comment on the aspect of the delay.

7. As the matter stands, there is a strong *prima facie* case against accused and investigation is reported to be pending. In these circumstances, it is not a fit case to grant bail to petitioners. Accordingly, the bail application is dismissed.



U.DURGA PRASAD RAO, J

Date: 28.07.2017
KA