

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.6951 of 2017

ORDER:

This petition is filed, under Section 438 Cr.P.C., by the petitioners-accused Nos.2 and 3 seeking anticipatory bail in Crime No.52 of 2017 on the file of the Station House Officer, Jadcherla Police Station, Mahaboobnagar District, registered for the offence punishable under Section 363 I.P.C.

2. The learned counsel for the petitioners submitted that this Court cannot refuse granting of anticipatory bail to the petitioners-accused persons. He further submitted that the allegations made in the complaint *prima facie* do not constitute any offence much less the offence alleged to have been committed by the petitioners.

3. The learned Additional Public Prosecutor submitted that the investigation is in progress; therefore, it is not a fit case to grant pre-arrest bail to the petitioners. He further submitted that the petitioners kidnapped the victim girl, who is aged about 15 years, and facilitated accused No.1 to commit rape on her.

4. The case of the prosecution is that on 15.02.2017 the petitioners along with accused No.1 kidnapped the victim girl by name Shresta @ Tejashwini and taken her to Srisailam where accused No.1 married her. It is the further case of the prosecution that accused No.1 committed rape on the victim girl.

5. The petitioners filed CrI.M.P.No.170 of 2017 on the file of the Court of the I Additional Sessions Judge, Mahabubnagar, and the same was dismissed on 19.04.2017 on that ground that if the anticipatory bail is granted, the petitioners may tamper with the prosecution evidence.

6. A perusal of the CD file reveals that on the date of the alleged incident, the petitioners herein, who are accused Nos.2 and 3, accompanied accused No.1 and victim girl from their native village to Srisailam. A perusal of the record reveals that the petitioners helped accused No.1 to marry the victim girl. A perusal of the record clearly reveals that the victim is aged about 15 years. It is needless to say that no one is entitled to take away the minor girl from the lawful custody of her parents. Any consent given by a minor is not a valid consent in the eye of law. While deciding the petitions filed under Section 438 Cr.P.C., the Court has to consider whether there is any *prima facie* material against the petitioners-accused or not. In the instant case, the record clearly reveals that the petitioners helped accused No.1 to kidnap the victim girl. A perusal of the record reveals that the investigation is in progress. As rightly pointed out by the learned Additional Public Prosecutor, if the petitioners are released on bail, the possibility of threatening the witnesses cannot be ruled out completely.

7. Taking into consideration the seriousness of the offence alleged to have been committed by the petitioners and the stage of investigation, this Court is of the considered view that it is not a fit case to grant pre-arrest bail to the petitioners.

8. Accordingly, the Criminal Petition is dismissed.

T.SUNIL CHOWDARY, J

Date: 06.09.2017
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