

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Crl.P.No.1624 of 2017

ORDER:

In this petition filed under Section 438 Cr.P.C., the petitioner/accused seeks Anticipatory Bail.

2) On the report given by Duggi Padmavathi, SBI Bank employee, Bhavanipuram, Vijayawada, the police of Women Police Station, Vijayawada registered Cr.No.6 of 2017 against the accused for the offences under Sections 376, 406, 506 and 420 IPC.

3) The complainant alleged that her marriage with her maternal uncle was held on 26.10.1997 and they begot a daughter and she was working in SBI, Krosuru Branch in Guntur District and some disputes arose between her and her husband. The accused was her co-employee and taking advantage of her disputes with her husband, he developed intimacy with her and on the false pretext of marriage he subjugated her and sexually exploited her many times. While so in 2011, he resigned the bank job and started using her salary for his needs and he also took her gold ornaments for his family needs with the promise that he would repay them after he getting a job. He was preparing for SI post; he got selected as SI and went for training. Occasionally he used to meet her and on the same false promise, used to cohabit with her. After some time the complainant came to know that the accused had already married another girl and when she questioned the accused, he told her that as his parents threatened to commit suicide unless he marry the said woman, he married her without any liking and promised that he would marry the

complainant and asked her to give divorce to her husband. On his inducement the complainant obtained divorce from her husband through Court. Thereafter when she questioned him for marriage, he threatened to kill her in the name of encounter. Investigation is informed to be pending.

4) Denying the allegations, learned counsel for petitioner would argue that the complaint allegations are utter false, as it is quite unbelievable that an educated and married woman would meekly surrender to the alleged promises and inducements of the accused and develop contact with him. Except the fact that both of them worked in similar bank for some time, there was no truth in other allegations. Even assuming that the allegations are true, the charge under Section 376 IPC has no application since it is not the case of the complainant that the accused has committed sexual assault against her will and consent. At best the charge under Sections 406 and 420 IPC may *prima facie* lie for the allegations that he took away her money and gold and failed to repay.

5) He relied upon the following decisions to canvass that when the accused allegedly had sexual intercourse with the consent of complainant of more than 18 years of age, anticipatory bail could be given.

1. Ashok Bapurao Thorat vs. State of Maharashtra and another¹

2. Deelip Singh @ Dilip Kumar vs. State of Bihar²

¹ 2008 CrI.L.J. (NOC) 165 (Bom.)

² AIR 2005 SC 203 = (2005) 1 SCC 88

6) Per contra, learned Additional Public Prosecutor vehemently opposed the bail application on the submission that since inception the accused induced the complainant to have sexual intercourse with him on the false promise of marrying her and even he insisted to give divorce to her husband and accordingly she gave divorce to her husband and thus he committed offences alleged against him. Learned Additional Public Prosecutor further argued, in this case investigation is at a crucial stage and 164 Cr.P.C. statement of victim has to be recorded and further, the accused is presently working as SI of Police Krosuru Mandal, Guntur District and the IO has to examine some of the bank employees of SBI, Krosuru Branch and the accused using his office threatening the bank employees not to give evidence and therefore bail application may be dismissed.

7) This Court finds force in the submission of learned Additional Public Prosecutor.

8) A bare perusal of FIR would show that taking advantage of the disputes between the complainant and her husband, the accused who had a lustful eye on her became close to her and with false promise of marriage, subjugated her and even informed that he was taking divorce against his wife and also instructed the complainant to take divorce from her husband so that he can marry her. Accordingly when she obtained divorce and made a marriage proposal, he denied. All these allegations, *prima facie*, constitute the offences alleged. However, the truth or otherwise has to be decided after thorough investigation. As the matter stands, investigation is pending and the apprehension of the learned

Additional Public Prosecutor that the accused using his office threatening the bank staff not to give evidence and if bail is granted to him, he may intensify his efforts cannot be sidelined.

9) There are no merits in this application. Accordingly, bail application is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 03.03.2017
Murthy

