

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4752 of 2017

ORDER:

1 This criminal petition is filed, by the petitioner/A.3, under Section 438 Cr.P.C., seeking pre-arrest bail in Crime No.294 of 2016 on the file of the Station House Officer, Nunna Police Station, Vijayawada, registered for the offences punishable under Sections 376, 366 (A), 354, 354 (A)(i) I.P.C and Section 4 of the POSCO Act, 2012.

2 The learned counsel for the petitioner/A.3 submitted that the petitioner has nothing to do with the alleged offences. He further submitted that the petitioner was falsely implicated in this case, therefore, this is a fit case to grant anticipatory bail to her.

3 *Per contra*, the learned Additional Public Prosecutor for the State of Andhra Pradesh submitted that the allegations made in the complaint *prima facie* constituted the offences alleged to have been committed by the petitioner. He further submitted that the statements of the witnesses clearly reveal the role played by the petitioner in the commission of the offences.

4 The petitioner/A.3 along with A.5 filed CrI.P.No.2198 of 2017 under Section 438 Cr.P.C and this Court dismissed the petition insofar as the petitioner is concerned with the following observations:

“The most important statement before this Court is the statement of the victim girl – Sirisha aged about 17 years. The first page of her statement itself discloses that one Laxmi and her mother Kanaka took the victim girl to their house on the pretext of making her to learn dance

and in the meanwhile one Jyoti aunty came there and told her to learn dance during evening hours and asked her to come to her house, thereupon they closed the face of victim girl with cloth and took her to Vijayawada station and thereafter shifted to the house of Jyothi, there the victim girl developed acquaintance with the daughter of Jyothi. They both went to beauty parlour and purchased clothes etc. thereafter, Jyothi aunty and Laxmi aunty went to the house of one Basha, after having Tea, they discussed something and took money from Basha in a different room, left the victim girl with the said Basha, while requesting Basha to pay Rs.100/- to victim girl and left the place. Later, she was taken to dance programme and handed over fair and lovely and coconut oil and money, there she participated almost in 10 programmes, there some of the male participants touched her waist and other parts of the body as they like. But Basha has not attended to programme and sent somebody along with her. Later on one day night at about 2.30 hours she went to the house of Basha, where she found one lady and one male are lying in one room and in the meanwhile, another person came and she was taken to another room and removed her clothes and raped her. One aunty also came inside the room whose name she does not know, but the victim girl can identify the person.

These allegations specifically shows that Jyothi, the first petitioner, actively played role in shifting her to the house of Basha, but there was no reference in the statement of victim girl, even in the statement of Laxmi, about the second petitioner-Shaik Razia @ Razi w/o. Basha. Therefore, in view of the role played by the first petitioner/A.3, who allegedly committed serious offence against the child, she is disentitled to claim pre-arrest bail. Whereas the second petitioner appears to be innocent of the offence. Therefore, I find that it is a fit case to grant pre-arrest bail to the second petitioner as there is no *prima facie* material to conclude that she committed the offences referred above.”

5 A perusal of the record clearly reveals that the petitioner/A.3 along with A.1 kidnapped the victim girl. The record further discloses that the petitioner along with A.1 took the victim girl to the house of Basha, who committed rape on the victim girl. There are no changed circumstances from the previous bail petition.

6 Having regard to the facts and circumstances of the case and the nature of the offences alleged to have been committed by the petitioner, this Court is of the considered view that this is not a fit case to grant anticipatory bail to the petitioner and hence this petition is liable to be dismissed.

7 In the result, the Criminal Petition is dismissed.

Date: 04.08.2017
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T.SUNIL CHOWDARY, J

