

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5851 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.32 of 2017 on the file of the Station House Officer, Tappa Chabutra Police Station, Hyderabad City, registered for the offences punishable under Sections 354, 382 and 506 read with 34 of IPC.

2. The learned counsel for the petitioner 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 for the offence under Section 354 of IPC, as the *de facto* complainant is none other than the wife of the petitioner. He further submitted that the petitioner had given divorce to the *de facto* complainant on 12.9.2016 as per Muslim law. He further submitted that the *de facto* complainant filed false case against the petitioner. ***Per contra***, learned Additional Public Prosecutor representing the State submitted that the allegations made in the complaint *ex facie* constitute the offence alleged to have been committed by the petitioner. He further submitted that the investigation is in progress; therefore, it is not a fit case to grant anticipatory bail to the petitioner.

3. Rizwana Begum is the *de facto* complainant. A perusal of the record reveals that the marriage of the petitioner was performed with the *de facto* complainant on 29.10.2015 as per Muslim rites and caste customs. It is the case of the prosecution that the

petitioner made an attempt to outrage the modesty of the *de facto* complainant. The prosecution case further reveals that the petitioner took away gold ornaments of the *de facto* complainant and threatened her with dire consequences.

4. The petitioner along with other accused filed CrI.M.P. No.1320 of 2017 on the file of the Court of Special Judge for Economic Offences, Hyderabad, under Section 438 of Cr.P.C., and the same was dismissed in so far as the petitioner-accused No.1 is concerned on 24.5.2017, while granting pre arrest bail in so far as the other accused.

5. The learned counsel for the petitioner, on one hand, submitted that the petitioner has given divorce to the *de facto* complainant and obtained Certificate to that effect from the Government Qazi, and on the other hand, he submitted that no offence is made out against the petitioner-accused No.1 for the offence under Section 354 of IPC. If the submission of the learned counsel for the petitioner is accepted, the *de facto* complainant cannot be treated as the wife of the petitioner. If that is so, the petitioner has no right whatsoever to outrage the modesty of the *de facto* complainant. The record reveals that the petitioner snatched away the gold ornaments of the *de facto* complainant and threatened her with dire consequences. A perusal of the record *prima facie* reveals the role played by the petitioner in commission of the alleged offences.

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

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

T.SUNIL CHOWDARY, J

August 22, 2017
YS

