

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.4152 of 2017

ORDER:

This criminal petition is filed, by the petitioners-accused, Nos.2 and 3, under Section 438 Cr.P.C., seeking anticipatory bail in Crime No.12 of 2017 on the file of the Station House Officer, Talla Proddutur Police Station, Kadapa District, registered for the offences punishable under Sections 366(A), 376, 420, 494, 506 and 323 read with 34 of IPC and Section 6 read with 5 (J) (II) (L) of Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The learned counsel for the petitioners strenuously submitted that even if the allegations made in the complaint are *ex facie* taken to be true and correct, the petitioners are not liable for punishment for the offences under Sections 366(A), 376, 420 and 494 read with 34 of IPC and Section 6 read with 5 (J) (II) (L) of POCSO Act. She further submitted that there is a delay of two years in lodging the complaint that itself falsifies the version put forth by the *de facto* complainant. She also submitted that petitioner Nos.1 and 2 are wife and mother-in-law of accused No.1, who have nothing to do with the affair between the accused No.1 and the *de facto* complainant; therefore, it is a fit case to grant anticipatory bail to the petitioners. ***Per contra***, learned Additional Public Prosecutor representing the State, in all fairness, submitted that *the* allegations made against the petitioners *prima facie* constitute the offences punishable under Sections 323 and 506 of IPC.

3. A perusal of the record reveals that the petitioners are accused Nos.2 and 3 in Crime No.12 of 2017. As per the allegations made in the complaint, accused No.1 induced the *de facto* complainant, who was then aged about 17 years, and married her. Out of the wedlock, accused No.1 and *de facto* complainant were blessed with a female child. It is further alleged that the petitioners beat the *de facto* complainant and did not allow her to enter into the house to lead marital life. The record further reveals that the petitioners-accused Nos.2 and 3 are women aged about 30 years and 43 years respectively. The petitioners have nothing to do with the offences under Sections 366(A), 376, 420 and 494 read with 34 of IPC and Section 6 read with 5 (J) (II) (L) of POCSO Act. As rightly pointed out by the learned counsel for the petitioners, there is a delay of two years in lodging the complaint.

4. Having regard to the peculiar facts and circumstances of the case and also the nature of the offences alleged to have been committed by the petitioners I am of the considered view that it is a fit case to grant anticipatory bail to the petitioners-accused Nos.2 and 3.

5. In the result, the criminal petition is allowed, directing the Station House Officer, Talla Proddutur Police Station, to release the petitioners-accused Nos.2 and 3 on bail, in the event of their arrest in connection with Crime No.12 of 2017, on each of them executing a personal bond for Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to his satisfaction. Further, the petitioners are directed to comply the following conditions:

- (1) They shall make themselves available for interrogation by Police as and when required;
- (2) They shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or any police Officer; and
- (3) They shall not leave India without the previous permission of the concerned Court.

T.SUNIL CHOWDARY, J

July 31, 2017
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