

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.9725 of 2017

ORDER:

Heard learned counsel for the petitioner/accused and learned Public Prosecutor for the respondent State, and perused the record.

This petition is filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner/accused in Crime No.788 of 2017 of Banjara Hills Police Station, Hyderabad, for the offences punishable under Sections 493 and 420 IPC.

Learned counsel for the petitioner/accused would submit that the petitioner/accused is an innocent person and falsely implicated in the crime. There are no ingredients of Section 420 IPC. Even the parties lived together for sometime, indulged in sexual intercourse and thereafter not marrying the person would not constitute an offence under Section 420 IPC. None can force the parties to get married after sometime. Learned counsel relied on a decision reported in **Akshay Manoj Jaisinghani v. The State of Maharashtra** (Order, dated 09.01.2017, in Anticipatory Bail Application No.2221 of 2016). He would also contend that the

complaint is lodged with a delay of one year and ultimately, prayed to grant bail to the petitioner/accused.

Learned Public Prosecutor would submit that the petitioner and the de facto complainant lived together. The petitioner promised to marry the de facto complainant and had sexual intercourse. She became pregnant and then, forcibly, got aborted. There is medical certificate to show the same. The house owner statement was also recorded wherein she stated that the petitioner introduced the de facto complainant as his wife, took the house on rent and lived there for six months and during that period, the petitioner/accused used to stay with the de facto complainant.

So, the point is that whether the request of the petitioner/accused for grant of bail under Section 438 Cr.P.C. can be acceded to.

As per the material placed on record, the parties had sex. The de facto complainant became pregnant and she was forced to abort pregnancy. Thereafter, the petitioner/accused did not marry her. There is also specific mention in the complaint that believing the promise made by the petitioner/accused, the de facto complainant had sex with him. When the de facto complainant became pregnant, she got aborted the same on the ground that

immediately after abortion, he would marry her, but, he did not do so. Lodging a report with a year delay will not throw away the prosecution case. The facts and circumstances narrated in **Akshay Manoj Jaisinghani** are distant. There are grave allegations levelled against the petitioner/accused and gravity of offence against the petitioner/accused requires investigation as per the procedure established under law. It is not a fit case to grant bail to the petitioner/accused under Section 438 Cr.P.C.

Therefore, the Criminal Petition is dismissed.

30th OCTOBER, 2017.

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Dr. SHAMEEM AKTHER, J

