

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.11169 of 2017

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused No.4, for grant of anticipatory bail in the event of his arrest in Crime No.246 of 2016 on the file of the Ghanpur (W) Police Station, Warangal Commissionerate, registered for the offences punishable under Sections 376(D), 324, 341 read with 354-B of Criminal Law Amendment Act, 2013 and Section 306 read with 511 of I.P.C.

2. Heard the learned counsel for the petitioner/accused No.4, learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. The learned counsel for the petitioner/accused No.4 would submit that the petitioner/accused No.4 is innocent person and falsely implicated in the case. He wrote competitive examination one day prior to the date of alleged incident and also on the next day of alleged incident. The same is incorporated in the bail application. The prosecution has not rebutted the same. Further, in the First Information Report lodged by the brother of the victim, there is no mention of any accusation against any of the accused. After one year of the alleged incident, this case was registered on the basis of the statement made by the victim under Section 164 of Cr.P.C. The statement of the victim under Section 164 of Cr.P.C. is doubtful and ultimately prayed to allow the application.

4. On the other hand, the learned Additional Public Prosecutor opposed the grant of bail to the petitioner/accused No.4 stating that there are specific and grave allegations against the petitioner/accused No.4 and as such, he is not entitled for bail under Section 438 of Cr.P.C. and prayed to dismiss the application.

5. The material placed on record reveals that the victim B.Rani was given in marriage to one B.Santosh. B.Santosh committed suicide two years back. The victim has 14 year old daughter. Victim used to attend the field belonging to her father. On 19.11.2016 at 04:00 AM, she went to the paddy fields, switched off the electric motor. When she was returning, one Ponnamm Ramulu, belonging to her village, caught hold of her hair and made her go round the agricultural field. Another person B.Somaiah caught her and removed her saree, one K.Kranthi, who also belong to her village, cut her blouse with blade and the petitioner herein/accused No.4, who also belongs to her village, caught hold of her hands tightly, abused her and beat her. Accused No.1 committed rape on her and abated the other accused to outrage the modesty of the victim. There is also an allegation that all the four accused had bitten the victim on her body. Thereafter, the victim came to her house. One woman by name Ch.Rajitha scolded the victim in filthy language and beat her by catching hold of her hair. Thereafter, the victim became intolerable and poured kerosene on her around 10:00 AM and made an attempt to commit suicide. Thereafter, she was taken to the hospital and was treated. The said statement was made by the victim before the Judicial Magistrate of First Class under Section 164 of Cr.P.C. The submission of the learned

counsel for the petitioner/accused No.4 is that the petitioner/accused No.4 wrote competitive examination one day prior to the alleged incident and one day after the alleged incident. The petitioner/accused No.4 has also filed a copy of the hall ticket. Whether the petitioner/accused No.4 wrote the competitive examination one day prior and one day after the alleged incident are not the determining factors. There is no reason for the victim to make a false statement before the Magistrate against the petitioner/accused No.4. The general tendency is that a woman, whose modesty is outraged by someone, would not reveal the same to anyone so as to protect herself from defamation in the society. Therefore, making statement before the Magistrate under Section 164 of Cr.P.C. with a delay of about one year cannot falsify the statement of the victim. There are specific overt acts against the petitioner/accused No.4. The allegations are grave. Therefore, it is not a fit case to enlarge the petitioner/accused No.4 on bail under Section 438 of Cr.P.C.

6. Accordingly, the Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

05th December, 2017
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