

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.10824 OF 2017

ORDER:

This Criminal Petition is filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner-accused in Crime No.64 of 2017 of Rambilli Police Station, Visakhapatnam District, registered for the offences punishable under Sections 376, 417 and 420 I.P.C. and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. Heard the learned counsel for the petitioner-accused and the learned Additional Public Prosecutor appearing for the respondent-State, apart from perusing the material available on record.

3. The learned counsel for the petitioner-accused would submit that the petitioner-accused is innocent and he is falsely implicated in this case; the entire investigation is completed, material witnesses are examined and charge sheet is filed; and ultimately, prayed to allow the bail application.

4. Learned Additional Public Prosecutor opposed the grant of bail to the petitioner-accused under Section 438 Cr.P.C.

5. The material on record reveals that a report is lodged with the police on 03.06.2017 stating that the victim, who is the *de facto* complainant in this case, is the daughter of a kirana merchant in Terugupalle village; the petitioner developed intimacy with her, sexually enjoyed her without her consent under a promise of marrying her; the engagement also took place at the instance of village elders; both the parties exchanged rings; thereafter, the petitioner telephoned the *de facto* complainant and stated that he would not marry her. There is also allegation that the petitioner beat the *de facto* complainant with cheppals.

There are other specific allegations against the petitioner. The filing of charge sheet is not a ground to allow the bail application. The alleged acts of sexual assault constituting the offence under Section 376 I.P.C. are required to be determined after due trial. It cannot be said that the prosecution case is false and a false report is lodged against the petitioner by the *de facto* complainant. Under these circumstances, it is not a fit case to grant anticipatory bail to the petitioner under Section 438 Cr.P.C.

6. In the result, this Criminal Petition is dismissed. As a sequel, miscellaneous petitions, if any pending in this Criminal Petition, shall also stand dismissed.

Date: 27-11-2017.
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Dr. SHAMEEM AKTHER, J

