

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.4033 OF 2018

ORDER:

This criminal petition is filed under Sections 437 and 439 of Cr.P.C to enlarge the petitioner/accused on bail, who is in judicial custody since 23.01.2018 in connection with Crime No.205 of 2017 of Mandamarri Police Station, Mancherla District, registered for the offences punishable under Sections 366-A 376(2)(n) IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

The petitioner and the victim girl are closely related to one another and they were in love. While so, on 18.11.2017, when the petitioner abducted or kidnapped the victim girl allegedly, a case was registered as girl missing and later section of law was altered to Sections 366(A) and 376(2)(n) IPC.

The main contention of the petitioner is that due to love between the victim girl and the petitioner, she eloped with the petitioner and it was not kidnap of a minor girl. Major part of investigation is completed and requested to enlarge the petitioner on bail.

Learned Additional Public Prosecutor opposed the petition on the ground that only four witnesses were examined and investigation is pending. It is also contended that in case, the petitioner enlarged on bail, there is every possibility of interfering with the investigation as they are closely related to one another.

Admittedly, the victim girl is aged 17 years and she is a tribal and whereas the petitioner is aged 23 years belonging to the same caste and related to one another. Section 366-A deals with procurement of minor girl and deals with whoever, by any means whatsoever, induces any minor girl

under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, force or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine. Kidnapping is defined under Section 359 IPC. Kidnapping is of two kinds i.e. kidnapping from India and kidnapping from lawful guardianship. Section 361 IPC defines kidnapping from lawful guardianship. Whoever takes or entices any minor under 16 [sixteen] years of age if a male, or under 18 [eighteen] years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

In this case, the victim girl was in lawful custody of her father and mother i.e. Sodi Srinivas and Sodi Subhadra. Therefore, alleged taking away the minor girl *prima facie* attracts the offence punishable under Section 366-A IPC as he had sexual intercourse, which is punishable under Section 376(2)(n) IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012. The investigation is not yet completed. The petitioner is in jail since 23.01.2018 is not a ground to enlarge the petitioner at this stage as there are other witnesses to be examined. Hence, I find that it is not a fit case to enlarge the petitioner on bail.

In the result, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

12.04.2018
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