

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.12750 OF 2017

ORDER:

This Criminal Petition is filed under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner-A.8 in Crime No.318 of 2017 of Jangaon Police Station, Warangal Commissionerate, registered for the offences punishable under Section 312 I.P.C. r/w Sections 22 and 23 of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, and Sections 3, 4 and 5 of the Medical Termination of Pregnancy Act, 1971.

2. Heard the learned counsel for the petitioner-A.8 and the learned Additional Public Prosecutor appearing for the respondent-State, apart from perusing the material available on record.

3. Learned counsel for the petitioner-A.8 would submit that the petitioner-A.8 is 64 years old man and he is not responsible for the alleged offences; there are no details of the time, date and place of scanning; the petitioner-A.8 is innocent person and he is falsely implicated in this case; the petitioner is ready to abide by any condition in the event of grant of bail to him under Section 438 Cr.P.C.; and ultimately, prayed to allow the application.

4. Learned Additional Public Prosecutor opposed the grant of bail to the petitioner-A.8 under Section 438 Cr.P.C.

5. The material available on record reveals that A.2-Bala Sri Lakshmi was five months pregnant and she intends to know the gender of fetus. Then she approached the petitioner-A.8 for scanning and information and the petitioner-A.8, who took A.2 and her husband to unknown destination along with scanning machine. After collecting an

amount of Rs.4,000/- and examining A.2, the petitioner-A.8 revealed that the sex of the fetus is female. On that A.2 had undergone abortion on 16.08.2017. As per the record, A.2 has become pregnant and her five months pregnancy was terminated. The root cause of the termination of the pregnancy is sex determination test conducted by the petitioner-A.8. Therefore, it cannot be said that the petitioner-A.8 is innocent person. The age of the petitioner-A.8 is not a ground to grant bail under Section 438 Cr.P.C. The matter requires thorough investigation. It is also incumbent on the part of the investigating officer to find out how many sex determination tests were conducted by the petitioner-A.8 and revealed to examinees. The release of the petitioner-A.8 would hinder the investigation. Further, there is possibility of causing disappearance of material evidence. Viewing from any angle, it is not a fit case to grant bail to the petitioner-A.8 under Section 438 Cr.P.C.

6. In the result, the Criminal Petition is dismissed.

Dr. SHAMEEM AKTHER, J

Date: 03-01-2018

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