

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.4165 of 2019

ORDER :

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973 is filed by the petitioner, who is A.1, for grant of anticipatory bail in the event of his arrest in Crime No.190 of 2018 of Charminar Police Station, Hyderabad City, Hyderabad District, registered for the offences punishable under Sections 493, 420, 506 r/w. Section 34 of IPC and Section 4 of Dowry Prohibition Act.

The case of the prosecution is that after engagement of the defacto complainant and the petitioner/A.1 before elders, the defacto complainant and the petitioner started chatting with each other on phone and also on Whats App and on some occasions, the petitioner visited the house of the complainant also at Hyderabad. Thereafter, on 06.09.2018 and 30.09.2018, when the petitioner came to Hyderabad and resided in Khana Residency, there was physical relationship between the petitioner and the complainant without the knowledge of their parents. Thereafter, the petitioner and his parents started demanding bike and Rs.2.00 Lakhs towards furniture etc. Basing on the complaint lodged by the defacto complainant, the police registered Crime No.190 of 2018 for the aforesaid offences against the petitioner/A.1 and other accused.

Heard learned counsel for the petitioner/A.1 and the learned Additional Public Prosecutor appearing for the respondent State. Perused the material on record.

Learned counsel for the petitioner contends that it is a clear case of abuse of the process of law and that after dismissal of the petitioner's earlier bail application by this Court vide order dt.26.03.2019 in Crl.P.No.1577 of 2019, the prosecution referred the defacto complainant for medical examination and in the medical examination report, it was clearly opined that there was no sexual intercourse between the parties and since the marriage was not performed, the prosecution recommended for deletion of offences under Section 493 of IPC and Section 4 of Dowry Prohibition Act. It is also contended that both the petitioner and the complainant are majors and their acts of consensual sex cannot be treated as an offence and all incidents had happened at the instance of defacto complainant herself. It is also contended that the petitioner is ready to abide by any conditions imposed by this Court, including assisting the investigating agency for his release on anticipatory bail in the event of his arrest in the above crime.

On the other hand, the learned Additional Public Prosecutor vehemently opposed the relief sought in the above petition.

As seen from the record, after dismissal of the petitioner's earlier bail application by this Court vide order

dt.26.03.2019 in Crl.P.No.1577 of 2019, the prosecution referred the defacto complainant for medical examination, wherein the doctor clearly opined that 'there was no evidence of recent sexual intercourse between the parties, but sexual assault could not be ruled out'.

Thus, in view of the specific and serious nature of allegations levelled against the petitioner, I am not inclined to grant anticipatory bail to the petitioner/A.1. However, if the petitioner/A.1 surrenders before the Court below concerned and moves an application for regular bail, after giving prior notice to the Public Prosecutor concerned, the said application may be considered in accordance with law.

With the above observations, the Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE G. SRI DEVI

26.07.2019.
Msr

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Msr