

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.4367 of 2019

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973 is filed by the petitioner, who is A.2, for grant of anticipatory bail in the event of his arrest in Crime No.6 of 2017 of Thangallapally Police Station, Thangallapally, Rajanna Sircilla District, registered for the offences punishable under Sections 376, 417, 420 of IPC and Section 3 r/w. Section 4 of POCSO Act.

The case of the prosecution is that, on 11.04.2017 the defacto complainant has submitted a written complaint stating that after the death of her parents, she resided in her grandmother's house where she studied upto 10th Class and after the death of her grand parents, her maternal uncle brought her to Laxmipur Village and kept in their house, that her brother-in-law on the promise of marrying her had developed sexual contact with her at the age of 16 years and since then he has been enjoying her frequently for sexual intercourse and when she insisted him for marriage, he left the village and disappeared and hence requested to take necessary action. Basing on the said complaint, the police registered Crime No.6 of 2017 for the aforesaid offences against the petitioner/A.2 and other accused.

Heard learned counsel for the petitioner/A.2 and the learned Additional Public Prosecutor appearing for the respondent State. Perused the material on record.

Learned counsel for the petitioner contends that the petitioner is no way concerned with the alleged offences, that he is innocent of the offences alleged and his name is not mentioned in the FIR. It is further contended that in the charge sheet the accusations made against the petitioner are for the offence punishable under Section 109 of IPC, however, no role whatsoever has been assigned to the petitioner and the petitioner was not present in the house when the incidents occurred, that he was not aware of the alleged incidents and his name has been falsely implicated in this crime since he is the brother of A.1. It is also contended that the petitioner does not know about the registration of the above crime, he went to Doha (Qatar) to eke out his livelihood and after coming back recently only he came to know about the alleged incident. It is also contended that entire investigation in this case has already been completed and charge sheet also has been filed and the case is numbered as S.C.No.7 of 2019. It is contended that the petitioner is ready to abide by any conditions imposed by this Court 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 submits that since charge sheet has already been filed, the relief sought for by the petitioner may be rejected.

Thus, looking into the facts and circumstances of the case, since there are specific allegations levelled against the petitioner, I am not inclined to grant anticipatory bail to the petitioner/A.2. However, if the petitioner/A.2 surrenders before the Court below concerned within a period of ten days from the date of receipt of a copy of this order and moves an application for regular bail, after giving prior notice to the Public Prosecutor concerned, the said application shall be considered in accordance with law on the same day itself.

With the above observations, this Criminal Petition is dismissed.

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

JUSTICE G. SRI DEVI

01.08.2019.
Msr

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