

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No. 8652 of 2021

O R D E R:

This Criminal Petition under Sections 437 and 439 Cr.P.C. is filed by petitioner – Accused in Crime No. 946 of 2021 of Gachibowli Police Station, registered for the offences punishable under Sections 417, 420, 376 IPC, seeking bail.

2. The case of prosecution is that petitioner is brother of one of the friends of complainant viz. Shravya and he took her phone number and started calling her making proposal. Though, initially, complainant rejected his proposal, later, accepted him and got cancelled her alliance for marriage. While so, on 27.01.2021, petitioner and complainant went to Silver Key Restaurant, JV Colony where petitioner coerced her for physical relation for which she accepted. Again, on 27.03.2021, they were in physical contact at the same hotel. In April, complainant was tested positive and there was no proper communication between petitioner and herself. Subsequently, on 06.06.2021, when complainant went to the house of petitioner to discuss about their marriage, petitioner's family did not respond.

3. Learned counsel for petitioner Sri K.S. Naumene submits that as per the judgment of the Hon'ble Apex Court in ***Maheshwar Tigga v. The State of Jharkhand*** (Criminal Appeal No. 635 of 2020), consensual sex will not attract the offences either under Sections 417 and 420 IPC or Section 376(2) IPC., as from a very long time, petitioner and complainant have been in physical relationship with each other and it cannot be said that consent is

given on mistake of fact. He submits that earlier two bail applications were rejected by the Court below on the ground that statement of the victim under Section 164 Cr.PC. was not recorded. He further submits that petitioner is in jail for the last 83 days, hence, his case may be considered for grant of bail.

4. On the other hand, learned Assistant Public Prosecutor submits that investigation is pending and statement of complainant under Section 164 Cr.P.C. is yet to be recorded and at this stage, petitioner is not entitled for bail.

5. Taking into consideration the allegations in the compliant and the law laid down by the Hon'ble Apex Court in ***Maheshwar Tigga's case*** (supra) and as petitioner is languishing in jail for the last 83 days, this Court deems it a fit case to grant bail to him.

6. The Criminal Petition is therefore, allowed. Petitioner – Accused shall be enlarged on bail in connection with Crime No.946 of 2021 on the file of Gachibowli Police Station, on his executing a personal bond for a sum of Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to the satisfaction of XV Additional Metropolitan Sessions Judge, Ranga Reddy District at Kukatpally.

LALITHA KANNEGANTI, J

30th November 2021

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