

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No.10017 of 2021

ORDER:

This petition is filed under Section 438 of the Code of Criminal Procedure, 1973 seeking bail to the petitioner/accused in the event of his arrest in connection with Crime No.201 of 2021 of Kanchanbagh Police Station, Hyderabad District, registered for the offences punishable under Sections 493, 417, 420 and 506 IPC.

2. The case of the prosecution is that the de-facto complainant lodged a complaint stating that after the death of her husband, she was doing labour work, and 4 years back, on believing the words of accused that he will marry her, she was in physical relationship with him, and she has given all her hard earn money to him, while so, from 23.08.2021, her husband was not coming to her house and his phone was switched off, later, she came to know that the accused is residing at Mallapur, near Ramoji Film City, and when she asked about their relationship, he threatened her that he did not marry her, thereby intentionally cheated her.

3. Heard Mr D. Ramakrishna, learned counsel for the petitioner and learned Assistant Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner submits that even as per the complaint, both the petitioner and the de-facto complainant were living together as wife and husband and also she is having physical relationship with the petitioner. Learned counsel submits that even if the allegations in the complaint are taken on its face value, it will not attract the offence under Section 493 IPC. Learned counsel has relied on the orders passed by this

Court in **Prakash Gentala v. State of Andhra Pradesh**¹ and submits that this Court, in similar circumstances, has observed as under;

“Undisputedly, she is a divorced woman and not an illiterate and knows consequences of divorce and giving a ring itself will not give the marital tie and if at all she was willing and living with him, being two male and female majors, having a sexual life voluntary, it will not ripe into marital tie. Once such is the case, the very application of Section 493 IPC is bleak”.

and as such, the case of petitioner may be considered for pre-arrest bail.

5. On the other hand, learned Assistant Public Prosecutor submits that the petitioner having physical relationship with the de-facto complainant has cheated her. He submits that the investigation is pending and 3 witnesses were examined, and at this stage, the petitioner is not entitled for pre-arrest bail.

6. Taking into consideration the allegations in the complaint that both the petitioner and the de-facto complainant were living together from the last 4 years and further, as per the orders passed by this Court in **Prakash Gentala's** case (supra), this Court deems it fit to grant pre-arrest bail to the petitioner-accused.

7. The Criminal Petition is allowed. Petitioner – Accused shall surrender before the Station House Officer, Kanchanbagh Police Station, Hyderabad District, in connection with Crime No.201 of 2021 within one week from today and on such surrender and executing a personal bond for Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to the satisfaction of the said Station House Officer, he shall be released on bail. It is made clear that no further extension of time will be granted.

¹ 2018(2) ALD (Crl.)1020

8. Consequently, miscellaneous applications pending, if any, shall stand closed.

3rd January, 2021.

sj

LALITHA KANNEGANTI, J