

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.11044 of 2022

ORDER:

Heard Ms.P.Kavitha, learned counsel, representing Sri N.Ramesh, learned counsel on record for the petitioner, as well as learned Additional Public Prosecutor who is representing the respondent-State.

2. This Criminal Petition under Section 439 Cr.P.C. is filed seeking the Court to enlarge the petitioner, who is arrayed as accused in Crime No.139 of 2022 of Chandurthy Police Station, Rajanna-Siricilla District, on bail.

3. Making her submission, learned counsel for the petitioner contends that the alleged victim girl is not a minor as indicated in the F.I.R. Learned counsel states that the petitioner never kidnapped the alleged victim girl and indeed, the petitioner and the alleged victim girl fell in love and got married and thus, the petitioner has not committed any offence whatsoever.

4. Learned Additional Public Prosecutor, on the other hand, states that the petitioner abducted and sexually assaulted a minor girl. In the alteration memo filed by the

Station House Officer, Chandurthy Police Station, a narration of the statement of the alleged victim girl is made. In her statement, the alleged victim girl stated that she fell in love with the petitioner and both of them decided to get married after finishing degree. But, her parents came to know about their love affair and they started searching matches to perform her marriage. She informed the same to the petitioner and proposed to get married by going anywhere and on that, both of them left the place and got married at Sai Baba temple, Yellareddypeta and later, participated in sexual intercourse. She also mentioned that nobody forced her either for eloping with the petitioner or for getting married with him and that, they both willfully married.

5. Whether the consent of the alleged victim girl is valid in the eye of law is a fact to be decided by the trial Court. When the learned counsel for the petitioner states that the victim girl is not a minor as narrated by the prosecuting agency, learned Additional Public Prosecutor makes a mention that she is a minor. However, learned Additional Public Prosecutor submits that 27 witnesses were examined till now. Therefore, it is clear that material part of

investigation is completed. Thus, taking into consideration the stage of investigation, the statement of the alleged victim girl and also the fact that the petitioner is in judicial custody for more than a month, this Court is of the view that the request of the petitioner can be honoured, however conditionally.

6. Resultantly, this Criminal Petition is allowed with the following conditions:-

(i) The petitioner/accused shall be enlarged on bail on his executing a personal bond for Rs.50,000/- (Rupees Fifty thousand only) with two sureties for the like sum each to the satisfaction of the Court concerned. The sureties are directed to submit their two latest passport size photographs at the time of furnishing solvency. One such photograph is ordered to be pasted in the Surety Register against the name of the surety. The other photograph shall be kept in the case record concerned.

(ii) In case, the petitioner/accused holds a passport, he is directed to surrender the same, if it is not seized by now.

(iii) The petitioner/accused should not involve in any unlawful activity.

(iv) The petitioner/accused should afford all assistance for proper investigation of the case.

(v) The petitioner/accused should not cause the evidence of the offence disappear.

(vi) The petitioner/accused should not tamper with the evidence in any manner.

(vii) The petitioner/accused should not by way of inducement, threat or promise, dissuade any person who is acquainted with the facts of the case, from disclosing such facts to the Court or to the Police Officer.

(viii) The petitioner/accused should ensure his presence whenever required by the Court or Police.

(ix) The petitioner/accused shall not leave India without previous permission of the court concerned.

(x) The petitioner/accused shall report before the Station House Officer, Chandurthy Police Station, Rajanna-Siricilla District, on every

Monday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) The petitioner/accused shall file an affidavit before the court concerned disclosing the following particulars:-

- (1) Contact number
- (2) Mail address
- (3) Residential particulars.

In case, there is any change in the aforementioned details, the petitioner shall intimate the court concerned by giving a fresh affidavit duly mentioning the change. He shall continue to do so till filing of the final report.

Any deviation of the above conditions would entitle the respondent to take appropriate steps for cancellation of the bail granted.

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

Dr. JUSTICE CHILLAKUR SUMALATHA

20.12.2022
DR