

HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.11088 of 2022

ORDER:

1. Heard Sri B.Kiran Kumar, learned counsel representing Sri P.Shashi Kiran, learned counsel on record for the petitioner. Also heard the learned Additional Public Prosecutor who is representing Respondent-State and Sri M.Prithviraj, learned counsel representing Smt.G.Shilpa, learned counsel on record for the *de facto* complainant.

2. This Criminal Petition is filed under Section 438 Cr.P.C. for grant of pre-arrest bail on behalf of the petitioner, who is arrayed as Accused in Crime No.1535 of 2022 of Miyapur Police Station, Cyberabad District.

3. Making his submission, learned counsel for the petitioner contends that the petitioner has not committed any offence whatsoever and there are disputes between the petitioner and the *de facto* complainant with regard to monetary transactions that went on between them and to get her money back, the *de facto* complainant foisted a false case against the petitioner. Learned counsel also

submits that Police are trying to arrest the petitioner and the petitioner is a Government Employee having his family and in case, he is arrested, he would be put to serious loss and hardship and therefore, anticipatory bail may be granted.

4. Opposing the relief sought for, learned counsel for the *de facto* complainant submits that the petitioner lured an innocent woman of getting married and the victim woman, who was not aware of the earlier marriage of the petitioner, surrendered to him and thereby, the petitioner exploited her sexually. Learned counsel for the *de facto* complainant also submits that the petitioner demanded money for providing Government Job to the *de facto* complainant and though the *de facto* complainant stated that she would fetch money from her parents and pay, the petitioner directed her to give her savings and therefore, she, on different occasions, transferred amounts to the petitioner. Learned counsel also submits that the case facts attracts not only the provisions of law indicated in the FIR, but also Section 493 IPC and other provisions of law and therefore, the present application is liable to be dismissed.

5. The submission of the learned Additional Public Prosecutor is that the statement of the victim girl was recorded both under Section 161 Cr.P.C. as well as under Section 164 Cr.P.C. and she corroborated the testimony.

6. The matrix of the case as could be perceived through the material available on record is that the petitioner is the son of the paternal aunt of the *de facto* complainant. The petitioner used to follow the *de facto* complainant exhibiting his intention to marry her. However, the *de facto* complainant avoided the petitioner by stating that he is already married. Subsequently, the petitioner used to visit the *de facto* complainant at her work place. Later, the petitioner promised to provide Government Job to the *de facto* complainant and requested her to pay money for expenses for doing so. Though the *de facto* complainant stated that she would consult her parents and give money, on the instigation of the petitioner, she gave the same from her savings. Subsequently, on one day, while the *de facto* complainant was present at her sister's house, the petitioner went there and tied Thali and forcibly participated in the sexual intercourse. Subsequently, they

were meeting frequently. When the *de facto* complainant became pregnant, he got the pregnancy aborted forcibly. However, later, the petitioner started avoiding the *de facto* complainant.

7. By the aforementioned facts and through the case diary, it is clear that the *de facto* complainant is none other than the close relative of the petitioner. Therefore, how far it can be believed that the *de facto* complainant was not aware of the earlier marriage of the petitioner as submitted by learned counsel for the *de facto* complainant has to be looked into.

8. The submission of the learned counsel for the petitioner is that the petitioner is in Government service and in case he is arrested, he would lose his job.

9. Learned Additional Public Prosecutor did not state any grounds as to why arrest has to be affected. Also, nothing is before this Court to show that the arrest of the petitioner is required for the investigation to progress or for any other purpose.

10. Therefore, this Court is of the view that the request of the petitioner can be honoured, however, conditionally.

11. In the result, the Criminal Petition is allowed with the following conditions:

- (i) The petitioner/Accused is directed to surrender before the concerned Court within ten (10) days. On such surrender, he shall be enlarged on bail on his executing a personal bond for Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for 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) The petitioner/Accused shall report before the Station House Officer, Miyapur Police Station, Cyberabad District, on every Monday and Thursday between 10.30 a.m. and 12:00 p.m. till filing of final report.
- (iii) The petitioner/Accused should not involve in any unlawful activity.

- (iv) The petitioner/Accused should afford all assistance for the 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) In case the petitioner/Accused holds a passport, he shall surrender the same.
- (ix) The petitioner/Accused should ensure his presence whenever required by the Court or Police.
- (x) The petitioner/Accused shall not leave India without previous permission of the Court concerned.
- (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 of 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 pre-arrest bail granted.

12. Miscellaneous petitions, if any pending, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date:22.12.2022
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HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.11088 of 2022

Date:22.12.2022

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CIVIL REVISION PETITION No.3578 of 2018

27.12.2021

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