



CrI.O.P.No.21138 of 2023

WEB A.D.JAGADISH CHANDIRA, J.

The petitioners, who were arrested and remanded to judicial custody on 13.01.2023 for the offences punishable under Sections 417, 506(1) of IPC r/w Sections 5(1), 5(g), 6 of POCSO Act in Crime No.3 of 2023 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant/victim, minor XXXX, aged about 17 years, is that she was in love with one Simbu/A1 and on compulsion, A1 had committed penetrative sexual assault on her. On 12.01.2023, A1 had taken her to a secluded place and once again committed penetrative sexual assault on her against her wish. At that time, on his instructions two of his friends *Viz.*, A2 and A3, who were hiding in a bush, had come there and committed gang rape on her. Thereafter, A2 and A3 have threatened her by stating that they would expose the same to the villagers and thereafter, A1 had dropped her back in the village. Immediately, she informed to her sister, based on which, the case came to be registered.

3. The learned counsel for the petitioner would submit that they are innocent persons and they have falsely implicated in this case as A2 and A3



since they have happened to be the friends of A1. He would submit that investigation has been completed and the final report has been filed and the forensic report is also been filed wherein it does not disclose the presence of semen on the material objects recovered from the scene of occurrence. He would further submit that the petitioners are youngsters and they are in judicial custody from 13.01.2023. Hence, he seeks for grant of bail to the petitioners.

4. The respondent has filed a counter. The learned Government Advocate (Crl.side) for the respondent police submits that it is a case where A1, in the guise of loving the victim girl, had committed penetrative sexual assault on her. The victim girl is 17 years old. Later, on the threat, he had repeatedly committed sexual assault on her and also informed the same to his friends A2 and A3, who are the petitioners herein. They have pre-planned and taken the victim girl to a secluded place and earlier, A1 had committed penetrative sexual assault on her and during such act, the petitioners have gone there and by threatening the victim not to disclose the same and committed gang rape on her. The victim's statement has been recorded under Section 164 of Cr.P.C wherein she has vividly and categorically stated about the act of sexual violence committed on her by the accused as gang. Further, it is not a case of love affair and it is a case of heinous crime committed on the minor victim girl where A1 had committed penetrative sexual assault on her thereafter, he also allowed his



friends/petitioners herein to commit gang rape on her. He would further submit that the accused have operated under pre-planned manner and if bail is granted to the petitioners at this stage, there is every possibility of them interfering with the investigation and threatening the witnesses. He would further submit that the case is now stands posted for appearance of the accused on 03.10.2023. He would also submit that earlier application of bail in Crl.O.P.No.15125 of 2023 was dismissed on 12.07.2023 with direction to the learned Trial Judge to complete the trial as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of that order. As directed by this Court, the period of six months has not lapsed and the petitioners are before this Court for grant of bail, without any change of circumstances.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondent police and perused the materials available on record.

6. Taking into consideration of the fact that the case is of gang rape and also considering the gravity of the offence, this Court is not inclined to grant bail to the petitioners.



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7. Accordingly, this Criminal Original Petition is dismissed.

However, the Trial Judge is directed to comply with the directions given by this Court in Crl.O.P.No.15125 of 2023 dated 12.07.2023 .

14.09.2023

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Crl.O.P.No.21138 of 2023