

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.508 of 2023

ORDER:

1. Heard Sri V.Sreenivasa Rao, learned counsel for the petitioner as well as the learned Additional Public Prosecutor who is representing the Respondent-State.
2. Invoking Section 439 Cr.P.C., the petitioner moved this application for grant of bail. The petitioner is arrayed as Accused No.1 in Crime No.239 of 2022 of Dammapet Police Station, Bhadradi Kothagudem District.
3. Making his submission, learned counsel for the petitioner contends that the petitioner is in judicial custody since 07.01.2023. Learned counsel also contends that neither Section 376 IPC nor Section 417 IPC attracts to the case facts as the *de facto* complainant voluntarily participated in the sexual intercourse with the petitioner herein. Learned counsel further submits that as the investigation is completed, the petitioner may be enlarged on bail. Learned counsel also submits that anticipatory bail was granted in favour of Accused Nos.2 & 3.

4. The submission made by the learned Additional Public Prosecutor is that fifteen (15) witnesses were examined till now and Section 164 Cr.P.C. statement of the victim girl was also recorded.

5. The matrix of the case as could be perceived through the contents of the complaint is that there was a proposal of marriage between the petitioner and the *de facto* complainant and the marriage was arranged by the elders. During that time, the petitioner approached the *de facto* complainant stating that as the marriage between them is fixed, there would be nothing wrong in having sexual intercourse, participated in the sexual intercourse two or three times and subsequently, the petitioner refused to marry the *de facto* complainant.

6. As per the submission of the learned Additional Public Prosecutor, the material part of investigation is completed. As submitted by the learned counsel for the petitioner, the petitioner is in judicial custody since more than two weeks.

7. Having considered the above facts, this Court is of the view that the request of the petitioner can be honoured, however, conditionally.

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

- (i) The petitioner/Accused No.1 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 No.1 shall report before the Station House Officer, Dammapet Police Station, on every Monday between 10.30 AM and 12.00 PM till filing of final report.
- (iii) The petitioner/Accused No.1 should not involve in any unlawful activity.
- (iv) The petitioner/Accused No.1 should afford all assistance for the proper investigation of the case.
- (v) The petitioner/Accused No.1 should not cause the evidence of the offence disappear.
- (vi) The petitioner/Accused No.1 should not tamper with the evidence in any manner.

- (vii) The petitioner/Accused No.1 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 No.1 holds a passport, he shall surrender the same if the same is not seized till now.
- (ix) The petitioner/Accused No.1 should ensure his presence whenever required by the Court or Police.
- (x) The petitioner/Accused No.1 shall not leave India without previous permission of the court concerned.
- (xi) The petitioner/Accused No.1 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.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date:25.01.2023
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