

THE HONOURABLE DR. JUSTICE D.NAGARJUN

CRIMINAL PETITION No.343 of 2023

O R D E R:

This Criminal Petition is filed by the petitioner/Accused under Sections 437 and 439 of the Criminal Procedure Code seeking bail in FIR No.879 of 2022 on the file of Banjara Hills Police Station, Banjara Hills Division, Hyderabad registered for the offences punishable under Sections 417, 420, 376 (2) (n) of the Indian Penal Code.

2. Heard Sri K.Surender, learned counsel for the petitioner/accused and Sri T.V.Ramana Rao, learned Additional Public Prosecutor for respondent/State and perused the record.

3. As per the prosecution version, on 31.10.2022 at about 10:45 hours, the *de-facto* complainant has lodged a complaint stating that two years ago, the *de-facto* complainant and the petitioner worked in Wipro office. During that time, the petitioner proposed the *de-facto* complainant but she did not accept, however, still he was

after her. When both of them went to Jalagam vengal Rao Park and the petitioner misbehaved with her. The petitioner has taken the de-facto complainant to a lodge near Nandyal bus stop and promised to marry her and had sexual intercourse with her. Subsequently, the *de-facto* complainant told the petitioner that his family members were not agreeing for their marriage as the *de-facto* complainant is not beautiful and thereafter switched off his phone. Thereby, a compliant has been registered by the de-facto complainant.

4. It is submitted by the learned counsel for the petitioner that the petitioner has been remanded to judicial custody on 01.11.2022. It is further submitted that the petitioner is innocent; he has not committed the offence; the allegations levelled against the petitioner are false and he is the sole bread winner of his family.

5. On the other hand, learned Additional Public Prosecutor submitted that the petitioner has committed sexual intercourse under false promise of marrying her and

subsequently deceived her. It is further submitted that the investigation has not been completed.

6. As seen from the record, all material witnesses were recorded and the petitioner has been in judicial custody for more than eighty (80) days. Even according to the prosecution, the *de-facto* complainant has given the consent as both of them are adults. The sexual intercourse between two adults is not an offence. According to the prosecution, the petitioner has committed the sexual intercourse by giving a false promise that he would marry her and subsequently declined on the ground that she is not beautiful.

7. Whether the consent given is free consent or not is a question of trial. The prosecution is required to prove that the petitioner with ill intention has deceived the de-facto complainant from the inception by making a false promise to marry her and had sexual intercourse.

8. As seen from the remand report, all the material witnesses were already examined and statements under

Section 164 of the Criminal Procedure Code were already been recorded. There is no apprehension from the prosecution that he is likely to abscond.

9. Considering the facts and circumstances explained, this Court is of the opinion that this is a fit case to enlarge the petitioner on bail.

10. Accordingly, the Criminal Petition is allowed and the petitioner/Accused is ordered to be enlarged on bail subject to the following conditions:

i) The petitioner/Accused is directed to be released on bail on his executing personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of learned III Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

ii) On such release, as the petitioner/Accused is directed to appear before the Banjara Hills Police Station, Hyderabad on every Monday and Friday between 10:00 AM to 12:30 PM., until further orders or until charge sheet is

filed, whichever is earlier.

iii) The petitioner/Accused shall abide by the other conditions stipulated in Section 437(3) of the Criminal Procedure Code.

As a sequel, pending Miscellaneous Applications, if any, shall stand closed.

DR. D.NAGARJUN, J

Date: 19-Jan-2023
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