

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.3256 of 2023

ORDER:

Heard Sri K.Ajay Kumar, learned counsel, who argued on behalf of Sri N.Srushman Reddy, learned counsel on record for the petitioner, as well as the learned Additional Public Prosecutor who is representing the respondent-State.

2. Seeking the Court to enlarge the petitioner, who is arrayed as accused in Crime No.91 of 2023 of Kamareddy Town Police Station, Kamareddy District, on bail, the present Criminal Petition is filed under Section 439 Cr.P.C.

3. The matrix of the case, as could be perceived through the contents of the material that is brought on record, is that the deceased-Abhigna fell in love with the petitioner and the petitioner promised to marry her. However, he married one Usharani. The petitioner, thereafter, promised to take divorce from his wife and marry the deceased-Abhigna. The petitioner hatched a plan and participated in sexual intercourse with her. However, subsequently, he refused to marry and therefore, the deceased-Abhigna committed suicide by hanging.

4. Making his submission, the learned counsel for the petitioner states that the petitioner has not committed any offence whatsoever and indeed, a case was registered initially under Section 174 Cr.P.C. and thereafter, the Section of law was altered to 306 IPC. Learned counsel further submits that the petitioner was arrested on 21.2.2023 and he is in judicial custody since 50 days and as the entire investigation is completed, he may be enlarged on bail. Learned counsel also argued with regard to the applicability of Section 306 IPC.

5. The submission of the learned Additional Public Prosecutor, on the other hand, is that the petitioner, who is a close relative of the deceased-Abhigna, promised to marry her and later, deceived her, that too, having participated in sexual intercourse with her. As the deceased-Abhigna could not digest, she committed suicide by writing a suicide note. Learned Additional Public Prosecutor also states that the statement of the petitioner was recorded and the case is still under investigation. Learned Additional Public Prosecutor submits that nine witnesses were examined till now.

6. Strict applicability of Section 306 IPC to the facts of the case on hand cannot be decided while deciding this application for grant of bail as the decision with regard to applicability of the said provision has to be rendered by the trial court after full-fledged trial. However, by the submissions made, it is clear that the petitioner is in judicial custody since 50 days and that the material part of investigating is also completed. This court does not find any grounds, more so, convincing grounds for keeping the petitioner in judicial custody for further period. Therefore, this Court is of the view that the request of the petitioner can be honoured, however conditionally.

7. 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, Kamareddy Town Police Station, 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.

Dr. JUSTICE CHILLAKUR SUMALATHA

12.4.2023
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