

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.3685 of 2023

ORDER:

1. Heard Sri P.Vamsheedhar Reddy, learned counsel for the petitioner as well as the learned Additional Public Prosecutor who is representing the Respondent-State.
2. Seeking post-arrest bail, the present Criminal Petition is filed under Section 439 Cr.P.C. on behalf of the petitioner, who is arrayed as Accused in Crime No.42 of 2023 of Saifabad Police Station, Hyderabad.
3. Contending that the petitioner has not committed any offences, whatsoever, learned counsel for the petitioner submits that even as per the version of the prosecution, the petitioner, who is aged about 24 years and the *de facto* complainant, who is aged about 22 years, participated in sexual intercourse willfully and without any force from the other side and therefore, the case does not fall within the ambit of Section 376 IPC. Learned counsel also submits that the petitioner was arrested on 25.03.2023 and he is in judicial custody since then and as the entire investigation is also completed, he may be enlarged on bail.

4. The submission of the learned Additional Public Prosecutor is that the statement of the victim woman was recorded under Section 164 Cr.P.C. and thirteen (13) witnesses were examined till now.

5. The matrix of the case as could be perceived through the contents of the complaint are that the petitioner came into contact with the *de facto* complainant through Instagram and thereafter, he expressed that he fell in love with her. Both of them participated in sexual intercourse number of times. The petitioner even took the *de facto* complainant to his house and introduced his parents. The *de facto* complainant became pregnant and when she consumed the medicines given by the petitioner, she lost pregnancy. Later, she again became pregnant and the petitioner took her to a Hospital and while she was carrying eight months pregnancy, the child was got delivered and it was informed that the baby boy died. Even thereafter, promising to marry her, the petitioner participated in the sexual intercourse, but subsequently, he denied to marry.

6. As per the version of the prosecution, the petitioner committed offences punishable under Sections 420 IPC and

Section 376(2)(n) of IPC. By the submission of the learned Additional Public Prosecutor, it is clear that the material part of investigation is completed.

7. Having considered the submission made by the learned counsel for the petitioner, more particularly with regard to the applicability of Section 376(2)(n) IPC, 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 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, Saifabad Police Station,

Hyderabad, on every Sunday and Thursday between 10.30 AM and 12.00 PM 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 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 if the same is not seized till now.
- (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 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:20.04.2023

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