

THE HONOURABLE SRI JUSTICE M.LAXMAN

CRIMINAL PETITION NO.4175 OF 2023

ORDER:

1. This petition is filed seeking anticipatory bail under Section 438 of Criminal Procedure Code, 1973 (Cr.P.C). The petitioner is sole accused in Crime No.67 of 2023 of Veenavanka Police Station, Karimnagar District. The offences alleged against the petitioner are under Sections 376 (2) (n), 354 (c) and 506 of the Indian Penal Code.

2. The sum and substance of case of the prosecution is that the victim went to the house of the accused when his wife was pregnant to assist them and in the absence of his wife, in the month of April, 2022, the accused committed sexual intercourse with the victim as a result she gave birth to a male child.

3. It is the contention of the learned counsel for the petitioner that the victim initially lodged a complaint against the accused on 18.04.2022 before the police, which was closed. In the said complaint, there is no allegation of alleged rape. The accused is unconcerned with the said offence and he has not indulged in intercourse with the victim.

4. Learned Public Prosecutor opposed the grant of anticipatory bail to the accused and seeks his custody.

5. As seen from the actual facts, the offence allegedly took place in the month of April, 2022 and the present complaint is lodged after more than one year, in the month of April, 2023. Further, the initial complaint *prima facie* shows that there was no reference of intercourse against her will and she only mentioned about abuses and misbehaviour of the accused. However, fact is that a child is born to the victim. Hence, this Court feels that appropriate report is required to establish that the petitioner is biological father. Since time is required to obtain such report, this Court is inclined to grant bail to the petitioner and if, such report is positive the benefit of bail granted by this Court shall automatically stand vacated. The petitioner shall also cooperate with the police for getting the said report.

6. Accordingly, the Criminal Petition is disposed of granting temporary bail to the accused on the following terms and conditions:

(i) The petitioner/accused is enlarged on temporary bail in the event of his arrest in connection with FIR No.67 of 2023 on the file of the Station House Officer, Veenavanka Police Station, Karimnagar

District, on his executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties to the like sum each to the satisfaction of concerned Station House Officer.

(ii) Such a bail shall continue until the report is received with regard to biological paternity of the petitioner/accused and the child of the victim.

(iii) If the said report reveals that the petitioner/accused is biological father of the child of the victim then the benefit of bail granted under this petition shall automatically stand cancelled and the Investigating Officer will be at liberty to proceed with the investigation in accordance with law including the arrest of the accused.

(iv) The petitioner/accused shall also give undertaking as to his presence before the Police for securing his blood samples. He shall also respond to the call of the Investigating Officer for conducting further investigation.

(v) If any of the conditions stipulated above are violated, the benefit of bail extended to the petitioner/accused shall stand cancelled.

(vi) The concerned police are directed to take steps forthwith to find out the biological paternity of the child of the victim as to expedite the process of investigation.

Date: 08.06.2023
GVR

JUSTICE M. LAXMAN