

THE HONOURABLE SRI JUSTICE M. LAXMAN

CRIMINAL PETITION No.5202 OF 2023

ORDER:

1. This Criminal Petition is filed seeking regular bail under Sections 437 and 439 of Criminal Procedure Code, 1973 (Cr.P.C). The petitioner is sole accused in Crime No.846 of 2022 of Sanathnagar Police Station, Cyberabad. The offences alleged against the petitioner are under Sections 376 A and B of the Indian Penal Code, 1860 and Section 5 (m) read with Sections 6 and 7 read with Section 8 of the Protection of Children from Sexual Offences Act, 2012.

2. The sum and substance of case of the prosecution is that the accused is younger brother of husband of the *defacto* complainant and the *defacto* complainant was mother of two sons and one daughter. The allegation is that the accused is allegedly keeping his fingers in the vagina of the daughter of the *defacto* complainant, who is five years old and he is also misbehaving with her. It is also alleged that similarly the accused misbehaved with minor son of the *defacto* complainant and this has been continuously going on. Though, the matter was brought to the notice of family members, they did not believe

such allegations and rejected the same as false. The *defacto* complainant un-bearable with the behaviour of the accused left the matrimonial home and started to live in her parents' house along with her children.

3. The contention of the learned counsel for the petitioner/accused is that there are matrimonial disputes between the *defacto* complainant and her husband, who is elder brother of the accused. It is also contended that the injury certificate do not reflect any external injuries on the private parts of the victim. According to him, all these factors can be considered and the accused can be extended the benefit of bail.

4. Learned Additional Public Prosecutor opposed the grant of bail and submitted that this Court earlier considered the case of the accused and his bail application was rejected. According to him, the allegations against the accused are serious in nature. Hence, he is not entitled for grant of bail.

5. A close scrutiny of the record, the father of the victim himself lodged a complaint against the *defacto* complainant alleging that she has been making false allegations against his

brother i.e., the accused. Further, the injury certificate reflects that there are no external injuries to the private parts of the victim. The allegation is that the accused inserted his fingers in the vagina of the victim and misbehaved with her. Considering the complaint of the husband of the *defacto* complainant against her, the injury certificate and as there is no chance of immediate trial, this Court is of the view that the accused can be extended the benefit of bail on certain conditions.

6. Accordingly, the Criminal Petition is allowed and the petitioner/sole accused shall be released on bail on the following terms and conditions:

(i) The petitioner/sole accused shall be released on bail on his executing a personal bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties for a like sum each to the satisfaction of the XII Additional Metropolitan Magistrate, Kukatpally, Cyberabad.

(ii) The petitioner/sole accused shall not directly or indirectly influence any witnesses or *defact* complainant and he is further directed not to interfere in the affairs of the victim/*defacto* complainant.

(iii) The petitioner/sole accused shall not indulge in similar type of offences till conclusion of trial and if it is found that the petitioner is involved in similar type of offences in future, the bail granted to him shall automatically stands cancelled and he shall be taken into custody forthwith.

(iv) The petitioner/sole accused shall make available with the investigating agency for proper investigation and he shall fully cooperate with the investigation agency. He shall not at in any manner which will be prejudicial to fair and expeditious investigation.

JUSTICE M. LAXMAN

Date: 26.06.2023
GVR/fm