

THE HON'BLE SRI JUSTICE M.LAXMAN
CRIMINAL PETITION No.5649 of 2023

ORDER:

1. This petition is filed under Section 438 of Criminal Procedure Code, 1973 (Cr.P.C) seeking anticipatory bail. The petitioner is accused No.2 in Crime No.246 of 2023 of Godavarikhani-I(T) Police Station. The offences alleged against the petitioner are under Sections 363, 376(2)(n) of IPC read with Section 109 of IPC and Section 10 of Prohibition of Child Marriage Act, 2006.

2. The case of the prosecution is that accused No.1 is the neighbour of the victim; they allegedly fell in love and they brought to the notice of the parents of the victim and same was refused by them. On 13.05.2023, at 03.00 p.m., accused No.1 allegedly took the victim on motor cycle and both went to Hyderabad; met his friend and stayed there for two days. Thereafter, on 16.05.2023 they went to Siddipet and got married at Peddagutta Darga in the presence of the present petitioner and one elder viz., Khaji of Mulsim community. Later, accused No.1 allegedly participated in sexual intercourse with the victim.

3. Learned counsel for the petitioner submits that the victim is a major and the present case has been registered as if she was

minor. In support of his contention, he relied upon S.S.C certificate, which shows the date of birth of the victim as 13.01.2005. Further, he submits that the role of the petitioner/accused No.2 was to the extent of his presence in the marriage ceremony.

4. Learned Additional Public Prosecutor appearing for the respondent/complainant, contended that the victim is a minor and as per the date of birth certificate issued by the corporation, her date of birth is 13.01.2006.

5. Heard the learned counsel on either side and perused the material placed on record.

6. A perusal of the record, date of birth of the victim as per S.S.C Memo is 13.01.2005, whereas the birth certificate issued by the Corporation refers as 13.01.2006. The precedence has to be given to the School certificate any such variation requires determination in trial. As per the contention of the learned counsel for the petitioner/accused No.2, the petitioner was part of the marriage ceremony only. As per S.S.C.memo, the victim is major and her marriage cannot be said to be invalid. Therefore, the presence of the petitioner for such marriage cannot be said to be an offence.

7. In view of the above, this Court is inclined to grant anticipatory bail to the petitioner/accused No.2 on imposing certain conditions.

8. Accordingly, the Criminal Petition is allowed on the following terms and conditions:

- (i) The petitioner/accused No. 2 is enlarged on bail in the event of his arrest in connection with Crime No.246 of 2023 of Godavarikhani-I(T) Police Station, 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) The petitioner/accused No.2 shall abide by the other conditions stipulated in Section 438 (2) Cr.P.C and co-operate with the Investigating Officer in investigating the case.

03.07.2023
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JUSTICE M.LAXMAN

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