

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.8548 of 2023

ORDER:

1. This Criminal Petition is filed under Section 438 of Cr.P.C. by the petitioners/Accused Nos.1 and 2 seeking bail in the event of their arrest in connection with Crime No.115 of 2023 on the file of Achampet Police Station, Nagarkurnool, registered for the offences under Sections 376 and 313 r/w. 34 of IPC and Section 5 r/w. Section 6 of POCSO Act, 2012.
2. Heard learned counsel for the petitioners and learned Assistant Public Prosecutor for the respondent-State and perused the record.
3. The *de-facto* complainant/2nd respondent filed a complaint on 02.07.2023 alleging that she is studying Intermediate. After the death of her father, these petitioners who are maternal Uncles had clashes regarding property disputes and used to fight frequently. They created trouble and abused her mother and necked her out of the house for which reason, they started living separately. It is further alleged that taking advantage of her mother's absence, these petitioners have taken her to the agricultural fields and gave thumps up mixed with unknown substance, for which reason she lost consciousness, both of them

committed sexual intercourse and the same was done several times. Since her monthly menstruation stopped, she went to the hospital named MMR hospital at Achampet and it was known that she was carrying seven months pregnancy. At MMR hospital, the doctors gave anesthesia injection and her pregnancy was aborted. Petitioners further threatened that if she discloses to anyone, she would be killed. However, a complaint was filed.

4. Learned counsel appearing for the petitioner would submit that she made a similar complaint alleging rape against these petitioners and two others. The said complaint was investigated and the Police filed charge sheet deleting the names of these petitioners. The said charge sheet was filed on 15.06.2022. As the petitioners are not on talking terms with the mother of the *de-facto* complainant, the question of petitioners committing rape does not arise. In the complaint, the details of the incident or the dates on which the said incidents happened are not stated. Keeping in view the background of the differences, the petitioners have been falsely implicated and for the said reason, anticipatory bail may be granted.

5. This Court directed the learned Additional Public Prosecutor to get instructions from MMR hospital whether the *de-facto* complainant was given anesthesia injection and her pregnancy

was aborted. On instructions, he would submit that there are no details of said hospital as claimed by the *de-facto* complainant in her complaint.

6. Keeping in view the earlier disputes in between the *de-facto* complainant's parents and these petitioners and also the earlier complaint wherein the Police have deleted the names of these petitioners, *prima facie*, it appears that the complaint is result of their differences regarding the property.

7. In the said circumstances, the prayer for anticipatory bail by the petitioners can be considered, subject to the following conditions:

- 1) The petitioners/Accused Nos.1 and 2 are directed to surrender before the Station House Officer, Achampet Police Station, Nagarkurnool, on 18.09.2023. On such surrender, the said Station House Officer shall release the petitioners on bail, on their executing personal bond for a sum of Rs.25,000/- (Rupees Twenty five thousand only) with two sureties for a like sum each to his satisfaction.
- 2) On such release, petitioners/Accused Nos.1 and 2 shall appear before the concerned Station House Officer at 10.00 A.M on every Monday for a period of four weeks, for the purpose of investigation and thereafter, as and when required.

- 3) The petitioners/Accused Nos.1 and 2 shall abide by the other conditions stipulated in Section 438(2) of Cr.P.C and shall co-operate with the Investigating Officer in investigating the case.

8. Accordingly, this Criminal Petition is allowed. Miscellaneous applications, if any pending in this criminal petition, shall stand closed.

Date : 14.09.2023
dv

K.SURENDER, J

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.8548 of 2023
Dt.14.09.2023

dv