

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.1264 of 2024

ORDER:

This Criminal Petition is filed by the petitioner - accused under Sections 437 and 439 of Code of Criminal Procedure (for short “Cr.P.C.) to enlarge him on bail in Crime No.1680 of 2023 of PS, Meerpet on the file of the VI Additional Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar for the offences under Sections 376(2)(n), 342, 506, 366 of IPC and Section 5(1) read with Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short “POCSO” Act).

2. The case of the prosecution was that on 25.12.2023 at 07:00 PM, the prosecutrix lodged a complaint against the petitioner stating that her father was running a business of Chat Bandar at Badangpet Circle and they belonged to Bihar State. The petitioner - accused was her father's friend and he used to visit their house at Badangpet and used to talk to her. When her father and mother went to Chat Bandar, three months ago, the said accused came to their house in the absence of her parents, and made her to believe his words and participated in sexual intercourse with her and threatened her not to inform the same to anyone, otherwise he would eliminate her parents. From then onwards, he frequently came

to her house in the absence of her parents and participated in sexual intercourse with her. Fifteen days ago, he took her on his bike to his room at Nadergul Village and physically met her many a times. Later on 22.12.2023, she came to her house. Her parents had not lodged any missing complaint, as they thought that she had gone to their village. She informed her mother about the incident. She came to know that the accused was married and he was father of four children.

3. Basing on the said report given by the prosecutrix, the Police of PS Meerpet registered a case in Crime No.1680 of 2023 under Sections 376(2)(n), 342 and 506 of IPC. During the course of investigation, the Police sent the victim girl to medical officer for the purpose of examination, who opined that the victim girl was aged about 17 to 18 years of age and that she was carrying 20 to 22 weeks pregnancy. Basing on the age certificate issued by the medical officer and after recording the statement of the victim girl, the Inspector of Police altered the Section of law adding Section 366 of IPC and Section 5(1) read with Section 6 of POCSO Act, 2012 to the existing Sections.

4. The Police arrested the accused and remanded him to judicial custody on 06.01.2024.

4. Heard Sri M.Vijay Kumar Goud, the learned counsel for the petitioner - accused and the learned Additional Public Prosecutor.

6. The learned counsel for the petitioner submitted that the de-facto complainant herself mentioned her age as 19 years in the complaint dated 25.12.2023. As such, prima facie Section 6 of POCSO Act, 2012 would not attract. An agreement was also entered between the parties wherein both the parties stated therein that the prosecutrix was having an affair with the accused. But, from the date of agreement onwards, they would be having no relation with each other and the prosecutrix had received a sum of Rs.3,00,000/- by way of settlement and both the parties had signed on it.

7. He also further filed photographs of the prosecutrix along with the accused, wherein she applied sindur and wearing a black beads chain, as if they were in a marital relationship with each other.

8. The learned Additional Public Prosecutor opposed grant of bail to the petitioner contending that the age of the petitioner would be considered as (+/-) 2 years as per the certificate issued by the medical experts determining the age of the victim and basing on the said certificate, the offence under POCSO Act was registered against the accused.

9. Perused the record.

10. As the report lodged by the de-facto complainant would disclose that she herself stated her age as 19 years and the Aadhaar Card of the prosecutrix also would disclose her date of birth as 15.03.2005, which would show that she had completed 18 years of age and as per the contents of her report, she voluntarily accompanied the accused on his bike to his room and later also she on her own came to her house after ten days on 22.12.2023 and an agreement was entered by the parties settling the matter between themselves, this Court is of opinion that the prosecutrix voluntarily accompanied the petitioner – accused and had sexual relationship with him and prima facie the offences registered are not attracted.

11. As such the petitioner is liable to be enlarged on bail on his executing a personal bond for Rs.25,000/- with two sureties each for the like sum to the satisfaction of the VI Additional Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar.

12. In the result, this Criminal Petition is allowed.

As a sequel, miscellaneous applications pending in this petition if any shall stand closed.

Dr. G.RADHA RANI, J

Date: 05th February, 2024
Nsk.