

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL PETITION No.3273 of 2024

ORDER:

This Criminal Petition is filed by the petitioner/accused under Sections 437 and 439 of Cr.P.C. for grant of bail in Crime No.56 of 2024 of Chatrinaka Police Station, Chatrinaka, registered for the offences punishable under Sections 365 and 376(2) of IPC and Section 5 r/w 6 of Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. The case of the prosecution, in brief, was that on 24.01.2024 at 23:00 hours, the mother of the victim girl lodged a report about the missing of her daughter, aged 17 years, who was studying 10th class. She also stated that she suspected one P.Manikanta (petitioner herein) in the missing of her daughter. Basing on the said report, the case was registered initially under Section 363 of IPC. Subsequently, the missing girl along with her mother appeared at Chatrinaka Police Station on 20.02.2024. As per the statement of the victim girl recorded before Bharosa Center, the petitioner/accused was residing in her neighbouring house and they

both used to talk often on mobile phones and they became friends and the petitioner/accused was aged 19 years and studying 2nd year Intermediate. He expressed his love towards her and she accepted the same and when the family members came to know about their love affair, they reprimanded the victim and warned her not to talk with the petitioner/accused, but even then they continued to talk with each other. Later, as her parents were looking matches for her, they both decided to elope and on 24.01.2024 at 6:30 hours they left their respective houses. The petitioner/accused took Rs.10,000/- from his house towards expenditure and the victim girl brought a gold piece with her, they both went to the Central bus stand, Hyderabad and went to Mumbai on bus and from there, went to Delhi on 28.01.2024 and stayed there till 17.02.2024 by spending the amount brought by the petitioner/accused and selling the gold piece brought by her. She also stated that they had consensual sex 3 to 4 times and on coming to know about the registration of the case, they both returned to Hyderabad on 20.02.2024 and the petitioner/accused was arrested on 21.02.2024.

3. Heard the learned counsel for petitioner/accused and the learned Additional Public Prosecutor representing the respondent-State.

4. Learned counsel for the petitioner/accused submitted that as per the remand case diary, the petitioner/accused had not forcibly taken the victim girl along with him nor raped her, it was a consensual sex. The offences under Sections 365 and 376(2) of IPC and Section 5 r/w 6 of POCSO Act registered against the petitioner/accused would not attract and relied upon the judgments of High Court of Allahabad in *Mrigraj Gautam v. State of U.P. and others*¹ and High Court of Delhi in *Sohan Kumar @ Sonu Tomar v. State*,² wherein the petitioners therein, who were adolescents and involved in consensual romantic relationship were granted bail.

5. Learned Additional Public Prosecutor, on the other hand, opposed grant of bail to the petitioner/accused stating that the offences registered against the petitioner would attract, as consent was immaterial to attract the offences under Section 5 r/w 6 of

¹ 2023 SCC Online 2184

² 2018 Law Suit (Del) 3006

POCSO Act or Section 376(2) of IPC, as the victim girl being a minor aged about 16 years and prayed to dismiss the petition.

6. Perused the record.

7. Considering the age of the petitioner and also the age of the victim girl, as both were adolescents and involved in a consensual romantic relationship and the circumstances which forced them to leave their respective houses, as the parents of the victim girl were looking matches for her, without considering her age being a minor, it is considered fit to enlarge the petitioner/accused on bail with certain conditions.

8. Accordingly, the Criminal Petition is allowed and the petitioner/accused shall be released on bail subject to the following conditions:

- 1) The petitioner/accused shall execute a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to the satisfaction of the learned Chief Metropolitan Magistrate, Nampally.

- 2) The petitioner/accused shall abide by the conditions stipulated under Section 437(3) of Cr.P.C.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. G. RADHA RANI, J

Date: 27.03.2024
ssp