

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.4002 OF 2024

ORDER:

This Criminal Petition is filed by the petitioner-accused under Section 438 of Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) for grant of anticipatory bail in Crime No.59 of 2024 of P.S. I-Town, Mahabubnagar, registered for the offences under Sections 376(2), 417 and 420 of IPC and Section 66-D of the Information Technology Act, 2000-2008.

2. The case of the prosecution in brief was that on 18.03.2024 at 18:10 hours, the *de-facto* complainant aged about 31 years lodged a report stating that the petitioner, who was working as a police constable got acquainted to her through facebook and they used to talk through phone calls. The petitioner proposed love and promised to marry her. Even she agreed for the proposal. They used to meet and talk closely. On one occasion, he took her on his Honda unicorn bike to Fathepur. In between the journey, he stopped the bike and forcibly enjoyed her sexually. After that also they used to meet and talk frequently. She asked the petitioner to marry her. He refused on the pretext of his brother’s marriage. She informed to her parents and a panchayath was held. In the said

panchayath, the petitioner agreed to marry her, but subsequently, refused to marry, as such, lodged the report.

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

4. Learned counsel for the petitioner submitted that the *de-facto* complainant was continuously harassing the family of the petitioner. She made many attempts to defame the petitioner by sending messages to his superiors, friends and others through social media platforms. She earlier lodged a complaint on 21.12.2023 before I-Town Police Station at Mahabubnagar and withdrew the same on the same day. The *de-facto* complainant threatened him for money and on failure to reach a financial settlement, lodged the present report. He also relied upon the judgment of the Hon'ble Apex Court in **Ansaar Mohammad Vs. The State of Rajasthan & Anr.**¹ and prayed to enlarge the petitioner on anticipatory bail.

5. Learned Additional Public Prosecutor opposed grant of bail to the petitioner stating that the petitioner promised to marry the *de-facto* complainant and after having sexual relation with her, refused to marry

¹ 2022 LiveLaw (SC) 599

her, even after agreeing before the panchayath elders to marry her and opposed grant of anticipatory bail.

6. Perused the record.

7. Considering the contents of the complaint wherein the *de-facto* complainant stated that she was in relationship with the petitioner for a period of three years and also stated that on one occasion, he forcibly enjoyed her sexually, but could not reveal the date and time when the said incident took place or lodged any report immediately to consider it as an offence and considering that both the petitioner and the *de-facto* complainant are majors and entered into a relationship knowing all the consequences and when the petitioner refused to marry her, she appeared to have lodged this complaint and considering the judgment of the Hon'ble Apex Court in **Ansaar Mohammad Vs. The State of Rajasthan & Anr.** (1 supra) wherein it was held that if the relationship is not working out, the same cannot be a ground for lodging an FIR for the offence under Section 376(2)(n) IPC, it is considered fit to enlarge the petitioner-accused on anticipatory bail on certain conditions.

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

- 1) The petitioner/Accused is directed to surrender before the Station House Officer, P.S. I-Town, Mahabubnagar, within a period of 15 days from the date of this order. On such surrender, the said Station House Officer shall release the petitioner on bail, on his executing 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 said Station House Officer.
- 2) The petitioner/Accused shall abide by the conditions stipulated in Section 438(2) of Cr.P.C..

Miscellaneous applications, pending if any, shall stand closed.

Date: 22.04.2024

ss

Dr. G.RADHA RANI, J