

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.4072 OF 2024

ORDER:

This Criminal Petition is filed by the petitioner – Accused under Sections 437 and 439 of Code of Criminal Procedure, 1973 (for short “Cr.P.C”), to release him on regular bail in connection with Crime No.89 of 2024 on the file of Shamirpet Police Station, Cyberabad, initially registered for the offence punishable under Section 363 of Indian Penal Code (for short ‘IPC’) which was later converted to Sections 366, 376(2)(n) of IPC and Section 5 (1) read with 6 of the Protection of Children from Sexual Offences Act (for short ‘POCSO Act’).

2. The case of the prosecution in brief was that on 16.02.2024 at about 00:30 hours, the *de-facto* complainant-mother of the victim girl lodged a complaint about missing of her daughter aged 17 years who was pursuing 1st year Intermediate. Basing on the same, a case was initially registered for the offence under Section 363 of IPC. During the course of investigation, on 09.03.2024, the victim girl returned home and stated that she voluntarily left the house along with the accused who was acquainted to her and they stayed at

Chennai till 09.03.2024 from 15.02.2024. Basing on the said statement, the Section of Law was altered and the petitioner-accused was arrested on 10.03.2024.

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 victim girl with her consent came to the petitioner and demanded him to take her away. In the remand report the police developed the version and fabricated a story at the behest of the *de-facto* complainant-mother of victim girl. There is no forcible sexual intercourse done by the petitioner on the victim girl, as such the offences under POCSO Act would not attract to the petitioner. He relied on the judgment of the High Court of Madras in *Vijayalakshmi and another vs. State*¹, wherein it was held that “Punishing an adolescent boy who enters into a relationship with a minor girl by treating him as an offender, was never the objective of the POCSO Act” and prayed to enlarge the petitioner on bail.

¹ 2021 SCC On-line Mad 317

5. Learned Additional Public Prosecutor opposed grant of bail to the petitioner stating that the petitioner-accused participated in sexual intercourse with a minor and her consent was not material to attract the offence under Section 5 (1) read with 6 of the POCSO Act and opposed grant of bail to the petitioner.

6. Perused the record. Considering that the victim girl herself left the house along with the petitioner and stayed at her own will with the petitioner at Chennai for a period of 24 days and the object of the POCSO Act is not to punish the adolescents who enter into relationships and as the petitioner was in custody since more than one month, it is considered fit to enlarge the petitioner – Accused on bail.

7. Accordingly, the Criminal Petition is allowed and the petitioner – Accused shall be released on regular bail subject to the following conditions:

- i) 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 VII Additional Metropolitan Magistrate,
Medchal, Medchal-Malkajgiri District.

- ii) The petitioner – Accused shall abide by the conditions stipulated in Section 437(3) of Cr.P.C.

Miscellaneous applications, pending if any, shall stand closed.

Date:23.04.2024
dsv/nds

Dr. G.RADHA RANI, J

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Dated:23.04.2024

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