

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION No.5668 OF 2024

ORDER

This petition is filed under Section 439 of the Code of Criminal Procedure seeking regular bail. The petitioners are Accused Nos.1 and 3 in Crime No.31 of 2024 of Dahegaon Police Station, Kumarambheem Asifabad District, within the jurisdiction of the Judicial First Class Magistrate, Sirpur-T, for the offences under Sections 354-D(i), 354-A, 365, 366, 366-A, 343, 506, 376(2)(n), 109 of the Indian Penal Code, Sections 6, 17 of the Protection of Children from Sexual Offences Act (POCSO), 2012, Section 3(2)(v), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Heard Mr. Yadu Krishna Sainath, learned counsel for the petitioners, as well as Sri S.Sudarshan, learned Additional Public Prosecutor, representing the respondent-State.

3. The accusations against the petitioners are that petitioner No.1/Accused No.1 has kidnapped the victim girl and petitioner No.2/Accused No.3 has helped petitioner No.1/Accused No.1.

4. Learned counsel for the petitioners would submit that the victim girl and petitioner No.1 were in love and also recently got married. At relevant time, the victim girl has voluntarily accompanied petitioner No.1. Further, the petitioners are in judicial custody since 07.04.2024 and the prosecution has completed entire investigation. Hence, prayed for grant of bail.

5. Learned Additional Public Prosecutor opposed the bail application and pleaded that the earlier petition for bail of Accused Nos.1 and 2 has been considered and rejected by this Court. Further, petitioner No.1 is the prime accused and the investigation is still pending. Hence, prayed for dismissal.

6. I have considered the submissions of the learned counsel and perused the material placed on record.

7. This Court in earlier application of petitioner No.1 for grant of regular bail has dismissed the application observing that investigation is still pending. Having regard to this position and petitioner No.1/Accused No.1 being the prime accused, the prayer for grant of bail in respect of petitioner No.1/Accused No.1 is dismissed. However, considering the depth of allegation against petitioner No.2/Accused No.3 and duration of his judicial custody,

this Court is inclined to allow the prayer of petitioner No.2/Accused No.3 for grant of bail with the following conditions:

- i) Petitioner No.2/Accused No.3 shall be released on bail, subject to his executing a personal bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties for a like sum each to the satisfaction of the Judicial First Class Magistrate, Sirpur-T.
- ii) Petitioner No.2/Accused No.3 shall communicate his residential address and contact numbers to the Investigating Officer and changes if any from time to time, till conclusion of the case.
- iii) Petitioner No.2/Accused No.3 shall make himself available for interrogation as and when required by the Police till filing of charge-sheet.
- iv) Petitioner No.2/Accused No.3 shall not influence or intimidate any witnesses or tamper with the evidence of the prosecution.
- v) Petitioner No.2/Accused No.3 shall not indulge in any illegal activity.
- vi) In case, petitioner No.2/Accused No.3 commits breach of any of the above conditions, the bail granted is liable to be cancelled at the instance of the prosecution.

8. Accordingly, the Criminal Petition is partly allowed. In so far as petitioner No.1/Accused No.1 is concerned, the Criminal Petition is dismissed.

Pending miscellaneous applications, if any, in this Criminal Petition shall stand closed.

N.TUKARAMJI, J

Date: 06.06.2024

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