

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.4270 of 2017

ORDER:

In this petition filed under Section 438 Cr.P.C, the petitioner/accused seeks pre-arrest bail in Crime No.407 of 2017 of Narsingi PS, Cyberabad, Ranga Reddy District which was registered for the offences under Sec.313, 420, 498-A IPC against the accused.

2) The *defacto* complainant reported to the police alleging that she was married in December, 2011 at Calcutta and on account of job, herself and her husband were residing at Hyderabad and in that context, they developed friendship with the accused and slowly the friendship turned into love between the complainant and accused and on knowing this, her husband discarded her and went away. She further alleged that the accused promised that he would marry her and had sexual intercourse with her. After three(3) months she came to know that the accused was already married and has children, she questioned him, on that he admitted that he was already married but his wife was mentally retarded and therefore he would give divorce to her and marry the complainant. It is further stated that when the complainant wanted to live apart from the complainant, he threatened that he would commit suicide and therefore she continued with him. In November, 2015 she changed her abode from Shaikpet to Secretariat Colony in Uppalaguda and she lived for sometime with the accused. During that course, she became pregnant. When she asked him to marry her, he promised that he would marry her on 21.04.2017 but in the meanwhile knowing that she became pregnant, he in order to cause

abortion, gave some tablets without the advise of the doctor and without the consent of the complainant. She profusely bled and therefore she consulted the doctor and got treatment. Her report was registered by the police as Crime No.407 of 2017 and investigation is reported to be pending.

3) Denying the allegations, Sri C.Nageshwar Rao, learned Senior counsel would seek bail on the submission that even if the complaint allegations are accepted as true, still the offences under Sec.420 and 498-A IPC would not be attracted as both complainant and accused were married persons and had promiscuous cohabitation, in which case, Sec.420 and 498-A IPC are not legally maintainable. If at all any offence that can be attributed against the accused, that would be only under Sec.313 for which there is no material that the accused forcibly caused termination of her pregnancy. On this submission and the accused is a Software employee and his arrest would cause harm to his job, prayed for bail.

4) Per contra, learned Additional Public Prosecutor severely opposed the bail on the submission that the statement of the complainant would clearly show that the accused cheated her stating that he was a bachelor and had sexual intercourse with her for a considerable period and knowing that she became pregnant, he discarded her and also aborted her pregnancy against her will and therefore, he is liable for the offences for which he is charged. He submitted that the investigation is in the nascent stage and as of now the statement of the complainant and her sister alone are recorded.

5) As can be seen from the complaint and the statements of the witnesses, they would *prima facie* show that the accused cheated the complainant by misrepresenting that he was a bachelor and promised to marry her and with such inducement, had cohabitation with her and when she requested him to marry her, he discarded her and also caused termination of her pregnancy forcibly without her consent. She suffered mental harassment and loss of her health due to his acts. As such there is a strong *prima facie* accusation against him and investigation is in the infancy stage. In that view, the petitioner does not deserve bail.

6) While dismissing the application, the petitioner is directed to surrender before concerned Court and seek regular bail.

Date: 30.06.2017
scs

U. DURGA PRASAD RAO, J

