

**IN THE COURT OF V ADDITIONAL SESSIONS JUDGE-CUM-SPECIAL
COURT FOR TRIAL OF OFFENCES AGAINST WOMEN,
WEST GODAVARI, ELURU**

Present: **Smt. P.Manga Kumari**,
VII Additional District & Sessions Judge, West Godavari, Eluru.
FAC: V Additional District & Sessions Judge, W.G., Eluru.

Wednesday, this the 9th day of November, 2022

Crl.M.P.No.651/2022 in Cr.No.161/2022 of Achanta Police Station.

Between:

Kusume Sundar Kumar, S/o. Rama Rao, age 19 years, Door No.22-102/4, New colony, China Pet, Achanta village and mandal.

...Petitioner/Accused....

And

State: SHO., Achanta PS.,
Rep.by its Additional Public Prosecutor,
West Godavari, Eluru.

... Respondent/Complainant

This petition is coming on today before me for hearing in the presence of Sri. B. Balaji, Advocate for the Petitioner/ Accused and learned Additional Public Prosecutor for respondent, and upon perusing the records and on hearing both sides, this Court made the following:

ORDER

This is the regular bail application filed by petitioner/Accused under Section 439 Code of Criminal Procedure, 1973 who remanded to judicial custody on 14.09.2022 in Crime No.161/2022 of Achanta Police Station for the alleged offences punishable under Sections 354-D, 417, 376(2)(n), 448 of Indian Penal Code.

3. The prosecution case is as follows:-

a. The victim (name withheld) is the defacto complainant in this case. The victim completed her intermediate in Government college, Achanta and staying at home leisure. She and her younger sister Karuna are of the off spring to their parents. About one and half year back her mother Jhansi Priyadarsini died. The victim and her father Prabhakara Rao are residing in their house and the victim's younger sister Karuna is residing at their grandmother's house in the same area of Chinta Pet, Achanta village.

b. The accused developed an evil eye over the victim and followed her on the pretext of love and marriage and finally induced her.

The victim believed the deceitful words of the accused and used to talk with him and moving with closely. As the matter stood thus, on 06.09.2022 at night the accused asked the victim to come to the house of Polumuri Rama Rao situated in the same area for chatting. Believing his words the victim went to the house of P. Rama Rao and on that the accused chatted with her for some time and at about 1.00 PM the accused committed sexual assault on the victim against her will and without her consent and promised to marry her and the victim believed his deceitful words. Again the accused called the victim to the house of said P. Rama Rao on the next day and accordingly, the victim went to the said house and the accused again committed sexual assault on the victim on the pretext of marriage in the absence of inmates.

c. On 08.09.2022 at about 11.00 PM the accused went into the house of the victim when she alone present in her house and committed sexual assault on the victim on the pretext of false promise of marriage. Again on 11.09.2022 at about 1.00 P when the victim alone present in her house, the accused criminally trespassed into the house of the victim and entered into her blanket without her knowledge. Then the victim raised alarm due to fear and on that the victim's father and neighbours caught hold of the accused called their Sangam elders and when asked the accused admitted his guilt and promised to marry the victim soon. On that on 12.09.2022 the father of the victim put the matter before village elders and in turn the village elders and some others held the panchayat and in that panchayat the accused admitted his guilt but refused to marry the victim and went away.

b. On the basis of the report given by the complainant, this case in Crime No. 161/2022 of Achanta P.S. was registered for the offence under Section 354-D, 417, 376(2)(n), 448 of Indian Penal Code was registered and investigated into.

4. Per contra, the learned Additional Public Prosecutor has submitted that investigation is pending for receipt of RFSL report and opposed to grant bail.

5. Now the point for determination is:-

“Whether the petitioner/Accused is entitled for the bail as prayed for?”

6. POINT:

In view of the contentions of both Counsels, a perusal the record it appears LWs 1 to 11 were examined, statement under Section 164 Cr.P.C. of

the victim is recorded. Investigation pending for receipt of RFSL report. The petitioner/accused involved in an offence under Sections 354-D, 417, 376(2)(n), 448 of Indian Penal Code. The petitioner/Accused is in judicial custody since 14.09.2022. At this juncture the question of tampering or hampering does not arise. The petitioner/accused is a student and if he is languished in jail certainly there will be no future career. It is fit and proper to release the petitioner on certain conditions. Considering all the facts and circumstances of the case, nature of offence and stage of investigation, this Court is inclined to grant bail to the petitioner/Accused by imposing conditions in the interest of justice.

Accordingly, this point is answered.

9. ***In the result***, this petition is allowed and the petitioner/ Accused is ordered to be enlarged on bail on his executing a personal bond of Rs.20,000/- (Rupees Twenty thousand only) with two sureties for like sum each to the satisfaction of 1st Additional Junior Civil Judge – cum – I Addl. Judicial 1st Class Magistrate, Palakol, with a condition that he shall make himself available to the investigating authority as and when his presence is required. On further condition that the petitioner shall attend before the SHO, Achanta Police Station, once in a week i.e., on every Saturday in between 10.00 AM and 1.00 PM., till filing of the charge sheet and that the petitioner/ accused shall not go to the surroundings of the victim's house and shall not try to influence the victim and her family members in any way relating to this case. The Petitioner/ accused shall not interfere with the investigation in any way and shall not involve in any crime.

Typed to my dictation directly by Typist, corrected and pronounced by me in open Court, on this the 9th day of November, 2022.

Sd/- P. Manga Kumari,
VII Addl. District & Sessions Judge,
West Godavari, Eluru.
FAC: V Additional District Judge, Eluru.

Copy to:

1. 1st Additional Junior Civil Judge – cum – I Addl. Judicial 1st Class Magistrate, Palakol.
2. The Station House Officer, Achanta Police station.
3. Sri B.Balaji, Advocate for the petitioner/ Accused.