

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
MONDAY ,THE FOURTEENTH DAY OF JUNE TWO THOUSAND AND TWENTY
ONE

:PRESENT:
THE HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY
AND
THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER

IA No. 2 OF 2020
IN
CRLA NO: 447 OF 2020

Between:

Mukesh Kumar Yadav @ Mukesh @ Munna, S/O Munnulal Yadav, Aged 23 years , R/O H.No.2-2-1099/9/A, Venkateshwar Nagar , Golnaka , Hyderabad. N/ 0 Mogaipur (v) Utraula, Gonda District of U.P. Represented by Ashok Yadav, S/o Munnulal Yadav Premnagar village, Balarampur District, U.P.

...Petitioner(s)

(Appellant in CRLA 447 OF 2020 on the file of High Court)

AND

State of Telangana, Rep. by its Public Prosecutor, High Court For the State of Telangana, Hyderabad.

...Respondent(s)

(Respondents in-do-)

Counsel for the Petitioner : SRI J RAMMOHAN RAO

Counsel for the Respondent :THE PUBLIC PROSECUTOR

Petition under Section 389 (1) Cr.P.C praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to enlarge the petitioner on bail by suspending the execution of the sentence imposed by the Xth Additional Metropolitan Sessions Judge Cum Special Sessions Judge For Trial Of Atrocities Against Women-I, Hyderabad in S.O No 135/2013 dated 22-01-2020, Pending disposal of CRLA No. 447 of 2020, on the file of the High Court.

The Court made the following

ORDER

“Heard the learned counsel for the petitioner/ appellant/accused, the learned Additional Public Prosecutor representing the respondent-State and perused the record.

This application, under Section 389(1) of Cr.P.C., is filed by the petitioner/appellant/accused seeking to enlarge him on bail, pending disposal of the appeal, by suspending the sentence of imprisonment imposed against him for the offence punishable under Section 376(2)(f) of IPC, vide judgment, dated 22.01.2020, passed in S.C.No.135 of 2013 by the X Additional Metropolitan Sessions Judge-cum-Special Sessions Judge for Trial of Atrocities against Women-I, Hyderabad.

The learned counsel for the petitioner/ appellant/accused would submit that P.W.1 is the victim in this case. There is inconsistency in the evidence of P.W.1 as well as P.W.4-Doctor. The blue colour inner ware of the victim,

which is necessary to prove the accusations levelled against the petitioner/appellant/ accused was not seized by the investigating officer. Furthermore, the age of the victim has also not been proved. There are material omissions and contradictions in the evidence of witnesses and ultimately prayed to allow the application as prayed for.

On the other hand, the learned Additional Public Prosecutor would contend that P.W.1/victim had clearly and categorically stated in her evidence about the commission of alleged offence by the petitioner/appellant/accused. There is also evidence of P.W.4-Doctor to show that hymen of victim was not intact and with regard to the recent sexual intercourse. There is also other evidence to connect the petitioner/appellant/accused with the alleged offence and ultimately prayed to dismiss the application.

The petitioner/appellant/accused is a life convict. It is evident from the record that P.W.1 had clearly and categorically stated in her evidence with regard to the commission of the alleged offence by the petitioner/appellant/accused and she has also stated that she was 15 years old as on the date of commission of the alleged offence. There is also medical evidence, particularly, the doctor's evidence and other record to establish that the hymen of victim was not intact and that semen and spermatozoa were detected on item Nos.1, 9 and 12 of the FSL report. In view of these circumstances, it is not appropriate to allow this application as prayed for. The omissions and contradictions, if any, in the material evidence can be examined when the appeal is taken up for final determination. In view of the gravity of offence alleged and the sentence imposed against the petitioner/appellant/accused, it is not a fit case to suspend the sentence and enlarge him on bail as prayed for. There are no merits in this application and the same is liable to be dismissed.

Accordingly, this application is dismissed."

//TRUE COPY//

SD/- K. VENKAIAH
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Xth Additional Metropolitan Sessions Judge cum Special Sessions Judge for trial of Atrocities against Women-I, Hyderabad
2. The Superintendent, Central Prison, Chanchalguda
3. One CC to SRI. J RAMMOHAN RAO Advocate [OPUC]
4. Two CC's to Public Prosecutor, High Court for the State of Telangana at Hyderabad (OUT)
5. One spare copy

HIGH COURT

ARRJ & DRSAJ

DATED: 14/06/2021

ORDER

I.A. NO. 2 OF 2020

IN

CRLA.No.447 of 2020



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APPLICATION IS DISMISSED