

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 29th DAY OF MAY 2014

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

CRIMINAL PETITION No. 2745/2014

BETWEEN:

Nagabushan, 34 years
S/o.M. Srinivas Rao
R/at No.29, Vinayaka Nilaya
I Cross, I Block, Srinagar
Banshankari III Stage,
Bangalore-50.

... PETITIONER

(By Sri. T. Seshagiri Rao, Advocate)

AND:

The State by
Rajajinagar Police Station,
Bangalore-10

...RESPONDENT

(By Sri.S.S. Aspalli, HCGP)

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This criminal petition is filed under Section 439 praying to enlarge the petitioner on bail in Crime No.61/2014 of Rajajinagar Police Station, Bangalore City, for the offences punishable under Sections 363, 364(A) of IPC.

This criminal petition coming on for orders this day, the Court passed the following:

ORDER

Heard the learned counsel for the petitioner and the learned Government Pleader.

2. The present petitioner is arraigned as accused No.1 along with another on the allegation of having committed offences punishable under Sections 363, 364(A) of the Indian Penal Code, 1860 (Hereinafter referred to as the "IPC" for brevity). It is alleged that the other accused, namely, accused No.2 was familiar with the girl named Pavithra who was studying in the 9th Standard. It is alleged that she was abducted by accused No.2 and was confined to the home of the present petitioner. It is later that the present petitioner as well as accused No.2 were taken into custody and the girl was rescued from confinement. It is on that basis, a case has been registered. The petitioner and another having approached the Court below seeking bail, the Court

below has held that the petitioners were involved in a serious crime and the offences alleged against them are serious in nature and hence, has proceeded to hold that if the petitioner as well as the other accused are enlarged on bail, they would influence witnesses and tamper with the material evidence and therefore, has rejected the bail petition.

3. The learned counsel for the petitioner would point out that the petitioner does not live alone in his house and that his mother is seriously ill and she is confined to bed and his father who is aged about 65 is also constantly present at home.

4. The allegations are that the petitioner had aided and abetted the crime committed by accused No.2 in having confined the girl in his house where his parents are constantly present. Further, the Court below has lumped the present petitioner along with accused No.2 as if the allegations are common though it is alleged that it

was accused No.2 who was having an affair with the girl in question. In the above circumstances the learned Government pleader would seriously object to any relief being granted to the petitioner as the offences alleged are indeed serious in nature.

5. Given the above circumstances, it cannot be said that the petitioner and accused No.2 could be placed on the same footing and whether it was possible for the petitioner to confine a girl in broad day light in his home where his aged parents are constantly present without they raising any objection. In the circumstances, it would be for the prosecution to establish the allegations at the trial. Hence, the petitioner has made out a case for enlargement on bail.

6. Accordingly, this criminal petition is allowed. The petitioner shall be enlarged on bail on his furnishing a personal bond for a sum of Rs.40,000/- with a solvent

surety for a likesum to the satisfaction of the concerned Court, subject to the following conditions.

- (i) The petitioner shall not directly or indirectly seek to influence the prosecution witnesses.
- (ii) He shall appear before the Investigation officer as and when required and shall co-operate with the Investigating Officer.
- (iii) The petitioner shall attend the Court regularly.
- (iv) In case of violation of any of these conditions, the Court is at liberty to pass suitable orders.

**Sd/-
JUDGE**

*alb/-.