

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.2888/2014

BETWEEN:

1. Sri Vinay Kumar,
S/o Nagaraju,
Aged about 24 years.
2. Sri Nagaraju,
S/o. Ramayya,
Aged about 50 years.

Both are R/at:
Syanumangala Village,
Bidadadi Hobli,
Ramangara,
Karnataka-571511.

...Petitioners

(By Shri. Prashanath.P.N., Advocate)

AND:

State of Karnataka,
By Bidadadi Police Station,
Represented by State
Public Prosecutor,
High Court of Karnataka,
Bangalore-560 001.

...Respondent

(By Shri. K.Nageshwarappa, HCGP)

This Criminal Petition is filed under Section 439 of the Criminal Procedure Code, 1908, praying to enlarge the

petitioners on bail in Cr.No.166/2014 of Bidadi P.S., Ramanagara District which is registered for the offences punishable under Sections 366(A) of Indian Penal Code and Sections 4, 6 and 7 of Protection of Children from Sexual Offences Act.

This Petition coming on for orders this day, the Court made the following:-

ORDER

Heard the learned Counsel for the petitioners and the learned Government Pleader.

2. The facts indicate that the complainant's daughter was alleged to have been abducted by petitioner No.1 and it is alleged that he had forced her to have sex with him. Petitioner No.2 is the father of the petitioner No.1. It is further alleged that petitioner No.2 had threatened the mother of the victim that, if she would not agree for the marriage of the petitioner No.1 with her daughter, he would ensure that they would forcibly marry. On that footing, a case has been registered against the petitioners for the offences punishable under Section 366-A of the Indian Penal Code, 1860 and Sections 17, 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (herein after referred to "PCSO Act' for brevity).

3. The learned Counsel for the petitioners would urge that the complainant's daughter was a minor is disputed. She was taking her SSLC examination and was in love with petitioner No.1 and had willfully lived together for three days. It is on the basis of the complaint that she was taken away from the custody of petitioner No.1. Hence, a false case has been foisted against the petitioners and their family members. The petitioners having approached the Court below seeking anticipatory bail were rejected and hence, the petitioners are before this Court.

4. Given the circumstances of the case, whether the complainant's daughter had willfully accompanied petitioner No.1 and had lived with him for certain days, would certainly dilute the allegations. Further, the invocation of the provisions of the PCSO Act, would, by itself, not lend gravity to the allegations, in the circumstances of the case. Therefore, the petitioners being taken into custody, on the basis of the allegations, lead to miscarriage of justice. Under the circumstances, the petitioners are entitled to be enlarged on bail.

5. The petition is allowed and the petitioners shall be enlarged on bail on each of them furnishing a self bond for a sum of ₹40,000/- (Rupees Forty Thousand only) with a solvent surety each for a like sum to the satisfaction of the concerned Court subject to the following conditions:

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

**Sd/-
JUDGE**