

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30th DAY OF SEPTEMBER, 2015

BEFORE

THE HON'BLE Mr. JUSTICE L.NARAYANA SWAMY

CRIMINAL PETITION NO.5449/2015

BETWEEN:

SRI.VIJAYKUMAR
S/O. SRI. NAGAPPA G.
AGED ABOUT 25 YEARS,
R/A. NO.89, PANATHUR DINNE
VILLAGE, PANATHUR POST,
BANGALORE EAST,
BANGALORE-560103.

... PETITIONER

(BY SRI.MANJU GOUDA S.B., ADV.)

AND:

STATE OF KARNATAKA
BY K.R. PURAM P.S.
BANGALORE,
REP. BY SPP,
HIGH COURT,
BANGALORE-560001.

... RESPONDENT

(BY SRI.K.NAGESHWARAPPA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER
SECTION 439 OF Cr.P.C., PRAYING TO ENLARGE THE
PETITIONER ON BAIL CR.NO.353/2015 OF K.R. PURAM

P.S., BENGALURU CITY FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 323, 504, 376, 420 R/W 34 OF IPC.

THIS PETITION COMING ON FOR ORDERS, THIS DAY, THE COURT PASSED THE FOLLOWING:

ORDER

Petitioner is accused in a criminal case bearing Crime No.353/2015 of K.R. Puram Police Station, Bengaluru for the offences punishable under Sections 323, 504, 376, 420 r/w 34 of IPC. He is in judicial custody since from 27.06.2015. Hence, he has filed this petition under Section 439 of Cr. P.C. seeking for release.

2. It is the case of the complainant that on 20.11.2010, one Vijaykumar acquainted with the complainant and proposed his love, initially the complainant refused and later on agreed and accepted him, when that being the circumstances on 13.05.2012, about 10pm to 11 pm the said Vijaykumar forcibly raped the complainant, when she threatened that she will lodge the police complaint then he promised to marry her then both

of them were in close contacts these facts were also known to said Vijaykumar parents also. They also agreed for the marriage then the said Vijaykumar tried to avoid her, he did not answer the telephone or SMS. After repeated requests also he did not respond. Hence the complainant has lodged the complaint.

3. Learned counsel for the petitioner submits that if at all such an alleged offence under Section 376 has taken place, what has prevented her from subjecting her for medical examination and she herself has admitted in her complaint that this petitioner used to take her to his house to have physical relationship. When that being the situation she ought to have refused or avoided the petitioner, presuming but not conceding if at all such an incident has taken place it is the likings and willing of the complainant to have physical relationship voluntarily as per the own complaint and in respect of offence under Section 323, 504 of IPC there is no allegation that this

petitioner has voluntarily assaulted the complainant causing her injury or she has taken any treatment from the hospital for the said alleged assault and there is no allegation to that effect that what is the filthy language used except for bald allegation. As such, the complaint and FIR are silent in respect of offence under Section 323 and 504 of IPC and there is no ingredients to implicate this petitioner in respect of Section 376 of IPC. Further, he submits that the petitioner is arrested on 27.06.2015 and now the petitioner is in judicial custody from 27.06.2015 till today. Hence, he prays to grant bail.

4. On the other hand learned Government Pleader has vehemently opposed the bail application on the ground that petitioner is involved in commission of the alleged offence which is serious in nature and heinous offence. Hence, he requests this Court to dismiss this petition.

5. Heard the learned counsel for the parties and perused the material available on record.

6. On perusal of the records prima-facie it shows that he has committed the offence. But now he has married the victim girl and he has produced the Certificate of Registration of Hindu Marriage.

7. Taking note of all these facts and circumstances and also by considering the submission made by the learned counsel for the petitioner-accused, I am inclined to grant bail to this petitioner by imposing certain conditions. Accordingly the following:

ORDER

- i. Petition is allowed.
- ii. Petitioner is ordered to be released on bail on executing a personal bond for Rs.50,000/- (Rupees Fifty Thousand Only) with one surety for the likesum to the satisfaction of the jurisdictional Court.

- iii. Petitioner shall attend the court on all dates of hearing, except under unavoidable circumstances.
- iv. Petitioner shall not hold any threats to the prosecution witnesses or lure them in any manner.

If the petitioner violates any of the above conditions, prosecution is at liberty to seek cancellation of bail.

Sd/-
JUDGE

BS