

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2017

BEFORE

THE HON'BLE MRS. JUSTICE RATHNAKALA

CRIMINAL PETITION NO.5858 OF 2017

BETWEEN:

Ajeesh @ Suresh O.B.
S/o Late Bhaskarana,
Aged about 32 years,
Residing at Odambara House,
Katrakolli Village,
Ponnampet, Kodagu District.
Pin Code: 571 201.

...Petitioner

(By Sri:S.G.Rajendra Reddy, Adv)

AND:

State of Karnataka,
Represented by Ponnampet
Police Station, Kodagu,
Rep. by Special Public Prosecutor,
High Court Building,
Bengaluru – 560 001.

...Respondent

(By Sri:S. Vishwamurthy, HCGP)

This CrI.P. is filed under Section 439 of Cr.P.C. praying to
enlarge the petitioner on bail in Crime No.07/2017 of Ponnampet

Police Station, Kodagu which is registered for the offence P/U/S 376 (2) (1) (n) and 315 of IPC.

This CrI.P. coming on for Orders this day, the Court passed the following:

ORDER

The petitioner is charge sheeted by the respondent police in respect of the offences punishable under Sections 376 (2) (1) (n) and 315 of IPC.

2. The allegation is, the victim is a deaf and dumb person married to brother of the petitioner. While the couple were residing at Katrakolli Village, Virajpet Taluk, Kodagu District, the petitioner under the influence of alcohol committed rape on her between 25.10.2015 to 21.06.2016, due to which she conceived. While she was carrying six months pregnancy, she was administered some pills by him under the guise that they are vitamin tablets. On consuming the same, the victim suffered heavy bleeding and she was taken to her mother's place and admitted to hospital. Since

the embryo was not alive, it was evacuated from the uterus etc.

3. Learned counsel for the petitioner submits that there is inordinate delay in lodging the complaint. Due to the family differences, this petitioner is falsely implicated. The victim was married for one year, there was no sort of allegation on the petitioner. It is only after her admission to the hospital, the case is registered. There is no medical evidence supporting the allegation that by administering of some drug she has made to aborted. The petitioner is a resident of Bengaluru. To wreak out vengeance arising out of family sued a false case is filed against him. Further the accused undertakes to abide by any condition that may be imposed by this Court.

4. Learned HCGP strongly opposes the petition and submits that statement of victim under Section 164 of Cr.P.C. discloses that petitioner has committed rape on the victim who is deaf and dumb and on coming to know that she has

conceived, he has administered drug which resulted in abortion. The offences committed by him is heinous in nature. If enlarged on bail, he will disappear and endanger the life of the complainant.

5. In the light of the above, perused the charge sheet papers, the falsity of the complaint or otherwise, is a matter of trial. As of now the concern is, the victim is a deaf and dumb person who has alleged that the petitioner committed rape on her when he visited her house. In that view of the matter, it is not a fit stage to enlarge the petitioner on bail. Accordingly, **petition is rejected.**

6. The trial Court is directed to expedite the trial. The liberty is reserved to the petitioner to move fresh bail petition to Sessions Court. In that event, bail application shall be considered only after recording the statement of CW-1 and 2. The trial Court shall record the statement of CW-1 and 2 within one month from the date of communication of this order.

7. Learned counsel for petitioner is requested to communicate this order to the concerned Court.

**Sd/-
JUDGE**

MH/-