

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28<sup>TH</sup> DAY OF FEBRUARY, 2018

BEFORE

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

**CRIMINAL PETITION NO.8663/2017**

**BETWEEN:**

Abdul Ghani S/o Balmiran  
Aged about 54 years  
R/at No.8/07, Janata Colony  
Nayandanahalli  
Mysore Road, Bengaluru-39

... Petitioner

(By Sri Chandrashekar R P, Advocate)

**AND:**

State of Karnataka by  
Chandra Layout Police Station

Rep. by State Public Prosecutor  
High Court Complex  
Bengaluru - 560 001

... Respondent

(By Sri S. Vishwa Murthy, HCGP)

This Criminal Petition is filed under section 439 of Cr.P.C., praying to enlarge the petitioner on bail in Crime No.291/2017 of Chandra Layout Police Station, Bengaluru and Spl.C.C.No.417/2017 pending on the file of the LIV Additional City Civil and Sessions Judge, Bengaluru for the offence punishable under Section 366 and 354 of IPC and

Section 8 of Protection of Children from Sexual Offences Act.

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

**ORDER**

Heard the petitioner's counsel and the learned HCGP for respondent-State.

2. This petition is under Section 439 of Cr.P.C. The petitioner is mainly implicated of the offences punishable under Section 8 of the Protection of Children from Sexual Offences Act, in Crime No.291/2017 registered at the respondent-police station.

3. The allegation against the petitioner is that on 25.06.2017 at about 2.00 pm, the victim girl had fever. Her mother i.e., the complainant gave the child, milk to drink and a bun to eat, then she went to the house of the accused. Since the wife of the accused was not there in the house, she came back to her house. Some time later, the accused called the victim girl loudly taking her name

and the victim girl went there and returned 10 minutes later and told her mother that the accused held her tightly and opened her pant. Therefore, the complainant opened the child's pant and found the stains of sperms. Thereafter, the complaint came to be lodged.

4. Learned counsel for the petitioner argues that the punishment prescribed for the offence under Section 8 of the Protection of Children from Sexual Offences Act, is imprisonment for a period of 3 years, which may extend to 5 years, which is not punishable either with death or imprisonment for life. Investigation is completed and charge sheet has been filed. The petitioner is ready to abide by any conditions which may impose by this Court and therefore, the petitioner be released on bail.

5. Learned HCGP opposes the grant of bail by submitting that there are sufficient materials to connect the petitioner with the crime. He also submits that the earlier bail petition filed by the petitioner was dismissed.

6. Having regard to the circumstances, I find that the offence alleged against the petitioner is not punishable with death or imprisonment for life. It appears that the investigating officer has not collected the report from the FSL with regard to subjecting the victim girl's clothes for scientific examination. Even otherwise, since the investigation is over and that the petitioner's presence can be secured before the Court during trial, petition can be allowed. The earlier petition filed by him was not dismissed on merits, but, it was withdrawn by him and therefore, this is not an impediment for granting bail. With these observations, the following:

ORDER

*Petition is allowed.*

*Petitioner shall be released on bail in connection with Crime No.291/2017 registered by Chandra Layout Police Station, Bengaluru on his executing bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) and providing two sureties for the likesum to the satisfaction*

*of the trial Court. The petitioner is also subjected to the following conditions:*

- i. He shall provide his address proof before the trial Court;*
- ii. He shall not tamper with the evidence collected by the investigating officer;*
- iii. He shall not directly or indirectly threaten the witnesses;*
- iv. He shall appear before the Court regularly for trial, without fail.*

**Sd/-  
JUDGE**

KMV/-