

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2019

BEFORE

THE HON'BLE MR. JUSTICE K.N.PHANEENDRA

CRIMINAL PETITION No.3383 OF 2019

BETWEEN:

ANAND
S/O MUNIYAPPA
AGED ABOUT 21 YEARS
R/AT: BEVAHALLI GRAMA
PADMA GHATTA POST
BYRAKUR HOBLI
MULBAGLU TALUK
KOLAR-561 121

... PETITIONER

(BY SRI.C.V.GAJENDRA, ADVOCATE)

AND:

THE STATE OF KARNATAKA
STATE BY KADUGODI POLICE
HIGH COURT GOVERNMENT PLEADER
HIGH COURT OF KARNATAKA
BANGALORE-560 001

...RESPONDENT

(BY SRI.K.P.YOGANNA, ADVOCATE)

THIS CRL.PETITION IS FILED U/S.439 CR.P.C
PRAYING TO ENLARGE THE PETITIONER ON BAIL IN
CR.NO.241/2018 (SPL.C.NO.535/2018) REGISTERED BY
KADUGODI POLICE STATION, BENGALURU FOR THE
OFFENCE P/U/S 363 AND 376 OF IPC AND SECTION 4
AND 6 OF POCSO ACT.

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

ORDER

Heard the learned counsel for the petitioner and learned HCGP for respondent-State. Perused the records.

2. Respondent-police have laid charge sheet against the accused-petitioner, and on the basis of which Special case in No.535/2018 has been registered, pending on the file of II Addl. District and Sessions Judge, Bengaluru Rural.

3. Brief facts as divulged in the charge sheet are that the victim-CW2 was aged 17 years 8 months as on 5.9.2018. The parents of the victim were searching for a bridegroom to the victim (CW-2) and CW-2 was not willing for that marriage, therefore, she told the accused to take her to some other place in order to avoid the said marriage. Accordingly, on 5.9.2018 in the morning

at 8 clock, the accused took the victim girl-CW2, who was a minor at that time, to different places, particularly to Tavarekere village and to other places and kept her in the house of his relatives and at those places they had sexual intercourse with each other.

4. On careful perusal of the victim's statement recorded by the police on 10.09.2018 wherein she has reiterated that she fell in love with the petitioner since nine months prior to the said alleged incident and it is stated that she herself requested to take her from her house. Looking to the above said facts and circumstances and also the victim girl being aged more than 17 years, in my opinion, during the course of evidence, the prosecution has to prove beyond reasonable doubt that she was below 18 years at the time of the alleged incident. Looking to the age of the victim girl that she was in the verge of attaining the age of majority and also the circumstances that they fell in

love with each other and due to infatuation they must have went together and enjoyed sexual activity together.

In the above said circumstances, the petitioner is entitled to be enlarged on bail. Hence the following:

ORDER

The Petition is allowed. Consequently, the petitioner shall be released on bail in connection with Spl. Case. No.535/2018 arising out of Crime No.241/2018 pending on the file of II Addl. District and Sessions Judge, Bengaluru Rural, for the offence under Section 376 of IPC, subject to the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (Rs. One lakh only) with one surety for the like-sum to the satisfaction of the jurisdictional Court.

(ii) The petitioner shall not indulge in tampering the prosecution witnesses.

(iii) The petitioner shall appear before the jurisdictional Court on all future hearing

dates unless exempted by the Court for any genuine cause.

(iv) The petitioner shall not leave the jurisdiction of the trial Court without prior permission of the Court till the case registered against him is disposed of.

**Sd/-
JUDGE**

ln.