

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 31ST DAY OF DECEMBER, 2019

BEFORE

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

CRIMINAL PETITION NO.8562/2019

Between:

Sandeep,
S/o Shivanna,
Aged about 22 years,
R/at Ambedkarnagar,
Balupete, Belagodu Hobli,
Sakaleshpura Taluk,
Hassan District – 34.

... Petitioner

(By Sri. Pratheep.K.C, Advocate)

And:

The State of Karnataka,
Sakaleshpura Rural Police
Rep. by its
State Public Prosecutor,
High Court of Karnataka,
Bengaluru – 01.

... 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 in Crime No.75/2019 of Sakaleshpura Rural Police Station, Hassan for the offence punishable under Sections 363, 376-D read with Section 34 of IPC and Section 4 of POCSO Act.

This Criminal Petition coming on for Orders, this day, the Court made the following:

ORDER

The accused No.1 in crime No.75/2019 of Sakaleshpur Police Station has preferred this petition under Section 439 of Cr.P.C seeking regular bail.

2. I have heard the learned counsel for the petitioner and learned High Court Government Pleader appearing for respondent – State.

3. The case of the prosecution is that on 23.04.2019, birthday celebration of CW-5 – Krithika was arranged at the residence of CW-6 – Manjula. CW-1, the victim girl had attended the said function. After attending the function she was returning home along with CW-5 on 26.04.2019 at about 12.50 p.m. When they were proceeding towards Auto rickshaw stand at Balupet, at that juncture both accused Nos.1 and 2 came in a Maruthi Swift Car bearing registration No.KA-02-MA-1715 and on the pretext of dropping CW-1 to her residence, they kidnapped her in the said car. On the way, accused No.1 offered juice to her, on consuming the same, she fell

unconscious. Meanwhile accused persons dropped CW-5 to her residence and thereafter took the victim child to an isolated place, beside the bridge of Saganihole. It is the further case of the prosecution that accused Nos.1 and 2 committed rape on the victim minor girl inside the car.

4. The learned counsel for the petitioner has contended that allegations against accused Nos.1 and 2 are one and the same and accused No.2 has already been enlarged on bail by this Court in CrI.P.No.3460/2019. He submits that now the investigation is completed and charge sheet has been filed. Therefore, the petitioner is not required for any further interrogation. He submits that petitioner also stand on the same footing as accused No.2. Accordingly, he seeks to release the petitioner on bail on the ground of parity.

5. Learned High Court Government Pleader on the other hand submits that there is a prima-facie case made against the present petitioner who is

arrayed as accused No.1. He submits that offence committed by the petitioner is very heinous in nature. Petitioner has committed rape on the minor girl who is aged about 17 years by making her unconscious and he submits that by looking into the nature of the offence committed, the petitioner is not entitled for the relief he has sought for.

6. The allegations against the petitioner is that he along with the accused No.2 committed rape on minor victim girl after making her unconscious.

7. The learned counsel for the petitioner strongly relies on the order passed by this Court granting bail to accused no.2.

8. I have perused the said order dated 14.06.2019. It is specifically observed therein that accused No.2 was the driver of the vehicle in which accused No.1/petitioner had traveled along with the victim. It is also noted therein that there was recovery of beer bottle at the instance of the accused No.1 and

he has shown the spot of the crime. Hence, the contention of the learned counsel for the petitioner that the present petitioner is also entitled to bail on the ground of parity cannot be accepted.

9. The offence committed by the petitioner is grave in nature. If the petitioner is enlarged on bail, there is likelihood of tampering the prosecution witnesses. Hence, in the facts and circumstances of the present case, it is not a fit case to grant bail at this stage. Accordingly, the petition is ***dismissed***.

**Sd/-
JUDGE**

NS