

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2021

BEFORE

THE HON'BLE MR. JUSTICE K. NATARAJAN

CRIMINAL PETITION No.6976/2021

BETWEEN:

SRI. AJAY ALIAS RANGASWAMY
S/O. SRI. MANJUNATH
AGED ABOUT 25 YEARS
R/O. AGASAVALLI HOSURU VILLAGE
HAYAVALLI POST
SHIVAMOGGA TALUK
SHIVAMOGGA - 577 201.

...PETITIONER

(BY SRI. BASAVANNA K.M. ADVOCATE)

AND:

STATE OF KARNATAKA
BY YELANDUR POLICE
R/O. NELLURU VILLAGE
CHAMARAJANAGAR TALUK
CHAMARAJANAGAR - 571 313

REPRESENTED BY STATE
PUBLIC PROSECUTOR
HIGH COURT COMPLEX
BENGALURU - 560 001.

...RESPONDENT

(BY SRI. MAHESH SHETTY , HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C., PRAYING TO ENLARGE THE PETITIONER ON BAIL IN SPL.C.NO.48/2021 (CR.NO. 74/2020) OF YELANDUR P.S., CHAMARAJANAGAR DISTRICT PENDING ON THE FILE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, CHAMARAJANAGAR, FOR THE OFFENCE P/U/S 363, 376(I)(n) AND (F) OF IPC AND SEC. 4, 6,17 OF POCSO ACT AND SEC. 9, 10, 11 OF PROHIBITION OF CHILD MARRIAGE ACT.

THIS CRIMINAL PETITION COMING ON FOR ORDERS, THIS DAY THROUGH VIDEO CONFERENCING, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioner/accused No.2 under Section 439 of Cr.P.C., for granting bail in Crime No.74/2020 registered by Yelandur Police for the offences punishable under Sections 363 & 376 of Indian Penal Code, 1860, Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 9, 10 & 11 of the Prohibition of Child Marriage Act. Now the case is pending on the file of Principal District and Sessions Judge, Chamarajanagar in Spl.C.No.48/2021.

2. Heard the learned counsel for the petitioner and the learned High Court Government Pleader for the respondent-State.

3. The case of the prosecution is that One Gowramma, the mother of the victim has filed a missing complaint before the Police on 03.09.2020 alleging that her daughter aged about 17 years was found missing from the house from 20.08.2020. During the Investigation, the Police is said to have apprehended the petitioner and the victim on 08.01.2021 and obtained the statement and subsequently arrested the petitioner and he has been remanded to judicial custody. The petitioner has moved the bail petition before the Sessions Judge, which came to be rejected. Hence, the petitioner is before this Court.

4. Learned counsel for the petitioner contended that as per the statement of the victim, she has already married accused No.1 on 19.07.2018 against her will. Then she deserted him and eloped with the petitioner in August, 2020 and thereafter, married the petitioner and while living together the petitioner was arrested. Accused No.1 was already granted bail and accused Nos.3 to 5 were also granted bail by the Sessions Judge and petitioner is ready to abide by any conditions that may be imposed by this Court. Hence, he prayed for granting bail.

5. Per contra, learned High Court Government Pleader for the respondent-State seriously objected for granting bail.

6. Upon hearing the arguments of learned counsel for the petitioner and learned High Court Government Pleader for the respondent-State and on

perusal of the records, admittedly, the complainant filed a complaint before the Police station on 03.09.2020 about missing of the victim from 20.08.2020. Thereafter, they were apprehended at Shivamogga on 08.01.2021 in the house of the accused No.2. Looking to the statement of the victim, it is clear that she has stated that she has already married accused No.1 on 19.07.2018 against her will and thereafter, through face book, she has contacted the petitioner and eloped with the petitioner and is said to have married him and residing in the house of the petitioner/accused No.2. Investigation has already been completed. Charge sheet has been filed. By looking into the facts and circumstances of the case, keeping the petitioner in custody will not serve any purpose except for trial.

By looking into the facts and circumstances of the case, I am of the view that without expressing any

opinion on the merits of the case and by imposing certain conditions, if the petitioner/accused No.2 is granted bail, no prejudice would be caused to the case of the prosecution. Hence, I pass the following:

ORDER

The criminal petition is ***allowed***.

The trial Court is directed to release the petitioner/accused on bail in Crime No.74/2020 registered by Yelandur Police for the offences punishable under Sections 363 & 376 of Indian Penal Code, 1860, Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 9, 10 & 11 of the Prohibition of Child Marriage Act, subject to the following conditions:-

- i) Petitioner shall execute personal bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for likesum to the satisfaction of the trial Court;*

- ii) Petitioner shall not tamper with the prosecution witnesses directly or indirectly;*
- iii) Petitioner shall not indulge himself in similar offences strictly;*
- iv) Petitioner shall take the trial without causing any delay; and*
- v) Petitioner shall not leave the jurisdiction of this Court without prior permission.*

**SD/-
JUDGE**

KTY