

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
(Sitting at Principal Bench, Bengaluru)

DATED THIS THE 29TH DAY OF DECEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE ANIL B KATTI

CRIMINAL PETITION No.103982/2022

BETWEEN:

SHRIDHAR S/O VENKATAYYA NAIK
AGE: 41 YEARS, OCC: COOLIE
R/O: BAPPUND, SHIRALI
BHATKAL TALUK
DISTRICT: KARWAR-581 354.

...PETITIONER

(BY SRI JAYANT ITAGI, ADVOCATE FOR
SRI VENKATESH M. KHARVI, ADVOCATE - V/C)

AND:

THE STATE OF KARNATAKA
R/BY ANKOLA POLICE STATION
R/BY THE STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
DHARWAD-580 008.

...RESPONDENT

(BY SRI RAMESH CHIGARI, HCGP-VC)

THIS CRIMINAL PETITION IS FILED UNDER SECTION
438 OF CR.P.C. SEEKING TO ENLARGE THE
PETITIONER/ACCUSED NO.2 ON ANTICIPATORY BAIL,
DIRECTING THE CONCERNED KARWAR SUB DIVISION,
ANKOLA POLICE TO ENLARGE THE ACCUSED ON BAIL IN

THE EVENT OF ARREST IN RESPECT OF IN ANKOLA POLICE STATION CRIME NO.187/2022 DATED 22.09.2022 FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 80 AND 81 OF JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015 AND SECTION 317 AND 34 OF IPC.

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

ORDER

The petitioner who is arrayed as accused No.2 is seeking anticipatory bail in connection with the case registered in Crime No.187/2022 of Ankola Police Station for the offences punishable under Section 80 and 81 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'Act') and Section 317 read with Section 34 of IPC.

2. The factual matrix leading to the case of prosecution can be stated in nutshell to the effect that on 05.09.2022, accused No.1 named in the FIR gave birth to a girl child at Civil Hospital Karwar. On account of financial constraint, she contacted accused

No.3 named in the FIR and expressed her willingness to sell the girl child. Accused No.1 named in the FIR was discharged from the hospital on 12.09.2022. On 15.09.2022, near Jai Hind Ground of Ankola, accused No.1 gave her girl child to accused No.2 and took Rs.1,00,000/- by cash and Rs.70,000/- by cheque. Thereafter, accused No.1 requested the petitioner to give back her girl child, since the same was not responded, filed the complaint.

3. In response to the notice, learned HCGP has appeared for the State and has orally objected for grant of anticipatory bail and contended that the petitioner is involved in child trafficking case and the investigation is not yet completed.

4. Heard the arguments of both sides.

5. On careful reading of complaint allegations, it would go to show that prosecution alleges that

accused No.1 named in the FIR has given birth to girl child on 05.09.2022 at Civil Hospital Karwar. Accused No.1 with the assistance of accused No.3 who is working as nurse in the said hospital has given the girl child of accused No.1 to this petitioner. Accused No.1 is alleged to have received Rs.1,00,000/- by cash and Rs.70,000/- by cheque from this petitioner. The petitioner has denied the said allegation. It is pertinent to note that the complaint is filed by incharge CDPO, Ankola Savitha Siddaiah Shastry Math on the basis information given by accused No.1 Smt.Prema Ganesh Aager. Accused No.1, even as per complaint allegations, did not complain before anybody from 15.09.2022 to 20.09.2022 of she having given her new born girl child to this petitioner on accepting cash of Rs.1,00,000/- and Rs.70,000/- by way of cheque. The complaint allegations also would speak that accused No.1 refused to give

anything in writing. It is alleged in the complaint that on 21.09.2022, at 10.30 a.m., accused No.1 and the persons taken the girl child came to the office, thereafter CDPO, Karwar unit carried them to the office. The allegation of girl child of accused No.1 given to this petitioner for money as per the complaint averments is not free from the cloud of doubt. The same can be thrashed out during trial. The offence under Section 80 of the Act is not attracted since it is nobody's case that the girl child of accused No.1 was given in adoption to this petitioner without following prescribed procedure. The offence under Section 81 of the Act relates to sale and procurement of children for any purpose. The allegation of sale of girl child of accused No.1 to this petitioner or procurement for money is a matter of trial. The offences alleged against the petitioner are not punishable with life or death imprisonment. The apprehension of the

prosecution can be met with by imposing appropriate conditions. Consequently, I proceed to pass the following:

Order

The criminal petition is hereby allowed with the following conditions;

- i) The petitioner is ordered to be released on bail in the event of his arrest in Crime No.187/2022 of Ankola Police Station, on executing personal bond and surety bond for a sum of Rs.50,000/- with one surety for likesum amount.
- ii) The petitioner shall not tamper with the prosecution witnesses in any manner.
- iii) The petitioner shall co-operate with the Investigating Officer for the purpose of investigation.
- iv) The petitioner shall not leave the jurisdiction without prior permission.

v) The petitioner shall give his attendance before the Investigating Officer on every 15th and last day of the month till further orders or the charge sheet is filed, whichever is earlier.

**(Sd/-)
JUDGE**

mv