



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF APRIL, 2023

BEFORE

THE HON'BLE MR JUSTICE T.G. SHIVASHANKARE GOWDA

CRIMINAL PETITION NO. 3567 OF 2023

BETWEEN:

SRI. RAJENDRA
S/O LATE SANNASWAMY,
AGED ABOUT 27 YEARS,
RESIDING AT NO. 520,
SIDDAPPAJI ROAD, H D KOTE TOWN,
H D KOTE TALUK,
MYSORE DISTRICT - 571 114.

...PETITIONER

(BY SRI. GOPALA GOWDA H K, ADVOCATE)

AND:

THE STATE BY
STATION HOUSE OFFICER,
SARAGUR POLICE STATION
SARAGUR TALUK AND TOWN,
MYSORE DISTRICT - 571 121.
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.

...RESPONDENT

(BY SRI. V S VINAYAKA, HCGP)

THIS CRL.P IS FILED U/S 439 OF CR.PC PRAYING TO
ENLARGE THE PETITIONER/S ON BAIL IN THE CR.NO.41/2023

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MALA K N
Location: HIGH
COURT OF
KARNATAKA



REGISTERED SARAGUR POLICE STATION, H.D.KOTE, MYSORE DISTRICT, FOR THE OFFENCE P/U/S 323, 376, 420, 504, 506 R/W 34 OF IPC, PENDING ON THE FILE OF HONBLE PRINCIPAL CIVIL JUDGE (SR.DN.) AND CJM.

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

ORDER

This petition is filed by the petitioner under Section 439 of Cr.P.C. seeking regular bail in Crime No.41/2023, of Saragur Police Station, registered for the offences punishable under Sections 323, 376, 420, 504, 506 R/w Section 34 of IPC pending on the file of Hon'ble Prl. Civil Judge (Sr.Dn) and CJM at H.D.Kote, Mysore District.

2. Heard the arguments of Sri. Gopala Gowda H.K., learned counsel for the petitioner/accused and learned HCGP for respondent-State and perused the records.

3. It is the contention of the learned counsel for the petitioner that there are no ingredients of offence under Section 376 of IPC, the allegation in the complaint explains that the complainant is the major, consenting party. He further submits that the petitioner is in judicial custody since 04.03.2023, relevant evidence is already collected and he is not required for any further investigation. He further contends that petitioner is



ready to abide by any conditions imposed by this Court and prayed for granting of regular bail.

4. Learned HCGP has vehemently opposed the grant of bail on the ground that the Sessions Court while rejecting the bail application has observed the involvement of the petitioner in commission of crime. As per the statement of the victim, the petitioner had sexual intercourse with her on several occasions with promise of marriage, investigation is not completed, not a proper stage to grant bail.

5. I gave my anxious consideration to the materials on record. On perusal of FIR, it is clear that the victim is aged about 20 years and was studying in 2nd year Degree. The accused and victim both were relatives and they came in contact with each other and fell in love. The allegation against the petitioner is that he promised to marry the victim and both came in physical contact on 18.04.2022, 10.09.2022, 15.09.2022 and 18.09.2022. After coming to know about the petitioner will not marry her, the victim files complaint to Saragur police on 23.09.2022. The matter was said to have settled between them and she withdrew her complaint. In spite



the dispute about promise of marriage again on 16.10.2022, 17.10.2022 and 18.10.2022, both came in physical contact with each other. It is argued by the learned counsel for the petitioner that the consent given by the victim was the result of their love affair and consensual sex cannot be termed as rape.

6. On careful consideration of materials on record, it depicts that the petitioner has promised the victim to marry, on the said pretext he had sexual intercourse with her. The only allegation against the petitioner is breach of promise to marry the victim. The background of both getting together physically *prima facie* did not point out the ingredients of Section 376 of IPC, only allegation of breach of promise of marriage remains at this stage. Hence, matter requires investigation and final report. The petitioner was arrested, has assisted for the investigation. His presence is not required for further investigation. What remains for the petitioner is to face the trial on filing of charge sheet. There are no grounds to refuse request for grant of bail. The petitioner has undertaken to obey any conditions which may be imposed on him by this Court. The apprehension of the prosecution could be met out by imposing proper conditions. Hence, it is a fit case for



exercise of discretion in favour of the petitioner. Accordingly, petition deserves to be allowed.

7. In the result, the following:

ORDER

- i. The Petition is ***allowed***.
- ii. The petitioner is ordered to be enlarged on bail in Crime No.41/2023 of Saragur Police Station, registered for the offences punishable under Sections 323, 376, 420, 504, 506 r/w Section 34 of IPC on executing a personal bond for a sum of Rs.1,00,000/- with one like bond to the satisfaction of the jurisdictional court;
- iii. The petitioner shall not repeat the offence or indulge in similar acts.
- iv. The petitioner shall not indulge in tampering the prosecution witnesses either directly or indirectly;
- v. The petitioner shall appear before the trial court on all hearing dates unless his appearance is exempted by the said court for valid reasons.

**Sd/-
JUDGE**

MH/-
CT: BHK