



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO.8794 OF 2025

BETWEEN:

RANGASWAMY
S/O LATE DASEGOWDA @ PATHI
AGED ABOUT 39 YEARS,
R/AT JANAGERE VILLAGE
KOTHAGERE HOBLI, KUNIGAL TALUK,
TUMKUR DISTRICT-572130.

...PETITIONER

(BY SRI RAVIKUMARA B.R., ADVOCATE)

AND:

1. STATE BY KUNIGAL POLICE
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING-560001.

2. XXX.

...RESPONDENTS

(BY SRI RANGASWAMY R., HCGP FOR R-1;
R-2 - SERVICE HELD SUFFICIENT (V/O. DATED 16/07/2025))

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 CR.P.C (U/S 483 BNSS) PRAYING TO GRANT BAIL TO THIS PETITIONER IN SPL.CC.NO.469/2022 (CR.NO.230/2022 FILED BY KUNIGAL POLICE STATION) FOR THE OFFENCES P/U/S 376(F) OF IPC, SECTION 4 AND 6 OF POCSO ACT, 2012 & SECTION 9, 10, 11 OF CHILD MARRIAGE RESTRAINT ACT, PENDING BEFORE THE HON'BLE ADDL. DISTRICT AND SESSIONS JUDGE, FTSC-I, TUMKUR.





THIS PETITION COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

Accused No.1 in Spl.C.C.No.469/2022 pending before the Court of Addl. District & Sessions Judge-FTSC-1, Tumakuru, arising out of Crime No.230/2022 registered by Kunigal Police Station, Tumakuru District for the offence punishable under Sections 376(F) of IPC, Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 9, 10 & 11 of the Prohibition of Child Marriage (Karnataka Amendment) Act, 2016 is before this Court in this successive bail application under Section 483 of BNS, 2023 seeking regular bail.

2. Heard the learned counsel for the petitioner and learned HCGP appearing for respondent Nos.1.

3. Respondent No.2, who is served in the matter has remained unrepresented.



4. FIR in Crime No.230/2022 was registered by Kunigal Police Station, Tumakuru District against the petitioner and others for the aforesaid offences, on the basis of first information dated 28.06.2022 received from the victim girl, who was then aged about 17 years. During the course of investigation, the petitioner was arrested on 02.07.2022 and subsequently remanded to judicial custody. After completing investigation, charge sheet has been filed against five persons and the petitioner is arraigned as accused No.1 in the charge sheet.

5. The bail application filed by the petitioner before the Sessions Court was rejected and therefore he had earlier approached this Court in Crl.P.No.3861/2023, which was dismissed as withdrawn. Thereafter, the petitioner had filed a fresh bail application before the Trial Court in Crl.Misc.No.1328/2024, which was dismissed on 13.09.2024. It is under this circumstance, the petitioner is before this Court.



6. Learned counsel for the petitioner submits that the victim girl and other material charge sheet witnesses have been already examined before the Trial Court as on this date. Perusal of the material on record would go to show that, the marriage of the petitioner with the victim girl was performed by her relatives. The petitioner, who has no criminal antecedents is in custody for the last more than three years. Accordingly, he prays to allow the petition.

7. *Per contra*, learned HCGP for respondent Nos.1 and 2 has opposed the petition. He submits that charge sheet witnesses have supported the case of the prosecution. The victim girl has made allegation against the petitioner, which would attract the charge sheet offences against him. The material on record would go to show that the victim was a minor as on the date of her marriage with the petitioner. Accordingly, he prays to dismiss the petition.



8. FIR in the present case was registered based on the first information submitted by the victim girl on 28.06.2022. The victim girl , who was then aged about 17 years has stated in her first information that after her parents had died her maternal aunt Gangamma (accused No.2) was taking care of her. Gangamma had asked the victim girl to marry the petitioner herein. However, the victim girl had refused to marry the petitioner for the reason that she was still a minor. It is alleged in the first information that subsequently on 27.05.2022 Gangamma and other accused forcibly performed the marriage of the victim girl with the petitioner in Alkere Hosahally village and thereafter the petitioner allegedly had forcible sexual intercourse with the victim girl. Subsequently, her maternal uncle Ramalingaiah came to know about the marriage of the victim girl with the petitioner and thereafter she had approached the police on 28.06.2022, based on her first information, FIR was registered against the petitioner and others.



9. The petitioner, who has no criminal antecedents is in custody in the present case from 02.07.2022 onwards. This Court had dismissed Crl.P.No.3861/2023 based on the memo filed on behalf of the petitioner, which reads as follows:

"The undersigned counsel for the petitioner prays that this Hon'ble Court be pleased to permit him to withdraw the above petition on the grounds that he shall be present to make his necessary application before the learned Trial Court on account of evidence and cross-examination tendered by P.W.1 and other witnesses in the interest of justice and equity".

10. While permitting the petitioner to withdraw the petition, liberty as sought for in the memo was granted to him. After the material charge sheet witnesses were examined, the petitioner had filed a bail application before the Trial Court in Crl.Misc.No.1328/2024, which was rejected.



11. The victim girl has been examined in the present case as PW.1 and she has been extensively cross-examined on behalf of the defence. Out of the 23 charge sheet witnesses cited in the present case till date only 7 charge sheet witnesses have been examined as PW.1 to PW.7. Since the material prosecution witnesses are already examined there cannot be any apprehension that the petitioner may tamper with the material prosecution witnesses. The petitioner, who has no other criminal antecedents is in custody for the last more than three years and considering the fact that only seven witnesses have been examined out of the 23 charge sheet witnesses cited in the present case, the chances of trial being completed and the case being disposed of in the near soon is very remote.

12. The Hon'ble Apex Court in the case of **JAVED GULAM NABI SHAIKH V. STATE OF MAHARASHTRA AND ANOTHER - 2024 SCC ONLINE SC 1693** at paragraph No.19 has observed as follows:



"19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime".

13. Under these circumstances, I am of the opinion that considering the period of petitioner's incarceration, the prayer made by the petitioner for grant of regular bail is required to be answered affirmatively without expressing any opinion on merits / demerits of the case.

14. Accordingly, the following:

ORDER

The Criminal Petition is ***allowed***.

The petitioner is directed to be enlarged on bail in Spl.C.C.No.469/2022 pending before the Court of Addl.



District & Sessions Judge-FTSC-1, Tumakuru, arising out of Crime No.230/2022 registered by Kunigal Police Station, Tumakuru District for the offences punishable under Sections 376(F) of IPC, Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 9, 10 & 11 of the Prohibition of Child Marriage (Karnataka Amendment) Act, 2016, subject to the following conditions:

a) The petitioner shall execute a personal bond for a sum of Rs.1,00,000 (Rupees One Lakh only) with two sureties for the likesum, to the satisfaction of the jurisdictional Court;

b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;



c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

NMS