

(2021) 04 KAR CK 0007
In the Karnataka High Court
Case No : Criminal Petition No. 2680 Of 2021

Balaraja @ Balappa

APPELLANT

Vs

State By Jagalur Police Station

RESPONDENT

Date of Decision : 16-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 34, 376, 506

Citation : (2021) 04 KAR CK 0007

Hon'ble Judges : K. Natarajan, J

Bench : Single Bench

Advocate : S.G. Rajendra Reddy, K. Nageshwarappa

Final Decision : Allowed

Judgement

K. Natarajan, J

1. This petition is filed by the petitioner-accused No.1 under Section 439 of Cr.P.C., for granting regular bail in Crime No.28/2021 registered by

Jagalur Police Station for the offences punishable under Sections 376 and 506 read with Section 34 of IPC.

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

3. The case of the prosecution is that on the complaint of the victim herself filed before the Police on 5.2.2021 alleging that accused No.1 was in touch

with her since eight years. Accused used to tell her that he is in love with her and under the promise of getting marriage to her, he had an intercourse

with her. Thereafter, on 27.01.2021, she approached the accused to marry her but the accused refused for the same. Accused Nos.2 and 3 who are

the relatives of the accused used to threaten her with dire consequences and

refused to perform their marriage. Therefore, the complaint came to be lodged. After registering the case, the Police arrested the accused on 7.2.2021 and remanded to the judicial custody. The accused approached the Sessions Court for granting bail, which came to be rejected. Hence, he is before this Court.

4. Learned counsel for the petitioner has contended that the petitioner is innocent of the alleged offences and has been falsely implicated in the case.

The age of the victim is 26 years and they are known to each other since eight years. They had physical intimacy from last two years. There is delay

in lodging the complaint. There is no force as it is consensual sex. He is ready to abide by the conditions that may be imposed by this Court. Hence,

prayed for granting bail.

5. Per contra, learned High Court Government Pleader seriously objected the bail petition on the ground that the investigation is still pending. Hence,

prayed for rejecting the bail petition.

6. Upon hearing the arguments and on perusal of the records, which goes to show that of course the victim came before the Police by lodging the

complaint for the reason that the accused refused to marry her. The complaint reveals that they had intercourse for almost two years from January

2019 to January 2021. There is no resistance from the complainant except lodging the complaint for the reason that the accused refused to marry her.

The age of the victim is 26 years, she is educated woman. It cannot be said that there is no consensual sex between the accused and the complainant

though the investigation is still under progress. By looking to the age of the victim and averments made in the complaint, without expressing any

opinion regarding the merits of the case, by imposing certain conditions, if bail is granted, no prejudice would be caused to the prosecution case.

Hence, I pass the following

ORDER

Accordingly, criminal petition is allowed.

The trial Court is directed to release the petitioner- accused on bail in Crime No.28/2021 registered by Jagalur Police Station for the offences

punishable under Sections 376 and 506 read with Section 34 of IPC, subject to the following conditions:

- (i) 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 trial Court;
- (ii) Petitioner shall not indulge in similar offences strictly;
- (iii) Petitioner shall not tamper with the prosecution witnesses directly/ indirectly;
- (iv) Petitioner shall appear before the Investigating Officer once in 15 days on every 2nd and 16th of the Calendar month between 10.00 a.m. and 4.00 p.m., for a period of three months till commencement of the case before Sessions Judge.