

**(2024) 04 KAR CK 0039**

**In the Karnataka High Court**

**Case No :** Criminal Petition No. 1288 Of 2024 (439-)

Manu

APPELLANT

Vs

State By Women Police Station, Hassan, Represented By  
State Public Prosecutor, High Court Of Building,  
Bengaluru-560001 & Others

RESPONDENT

**Date of Decision :** 19-04-2024

**Acts Referred:**

Code Of Criminal Procedure, 1973 — Section 164(5), 439

Indian Penal Code, 1860 — Section 376

Protection Of Children From Sexual Offences Act, 2012 — Section 5(I), 5(j), 6

**Citation :** (2024) 04 KAR CK 0039

**Hon'ble Judges :** Rajendra Badamikar, J

**Bench :** Single Bench

**Advocate :** Vinod Manohar .S, K. Nageshwarappa

**Final Decision :** Allowed

## Judgement

Rajendra Badamikar, J

1. The petitioner has filed this petition under Section 439 of Cr.P.C. seeking for enlarging him on bail in Crime No.99/2023 of Women Police Station, Hassan, registered for the offence punishable under Section 376 of IPC and Sections 5(I), 5(j) and 6 of the Protection of Children from Sexual Offences Act, 2012 (in short 'POCSO'), pending on the file of the Additional District and Sessions Judge and Fast Track Special Court-I at Hassan.

2. Heard learned counsel for the petitioner and learned High Court Government Pleader for respondent No.1-State. perused the records.

3. The allegations of the prosecution disclose that the petitioner/accused came in contact with victim through Instagram two years earlier and later on they developed love affair amongst themselves. When the victim was studying in A.V.K College at Hassan, by staying in the hostel, the petitioner/accused used to

visit the hostel and used to take victim to various places and subsequently under the guise of marrying her, he committed penetrative sexual assault on her in his house on number of occasions. When the relationship was noticed by the family members, they discontinued her education in A.V.K. College and she was got admitted in Mallipatna Pre-university College of Kelagalale Village. However, it is noticed that the victim in due course is found to be pregnant and after getting confirmation the matter was alleged to have been reported to Government hospital of Hassan SB-1 staff center and the victim is alleged to have been counseled. After counseling her, complaint was recorded by police and on the basis of the complaint FIR came to be registered. The petitioner/accused was arrested and remanded to custody. He has approached learned Special Judge seeking regular bail and his bail petition came to be rejected. Hence the petitioner/accused is before this Court.

4. On perusal of the records, it is evident that the victim is aged about 17 years and capable of understanding the things. Further the Instagram photographs reveal that victim has got close intimacy with the family members of the petitioner/accused also and they visited number of places for sight seeing and she was all along treated as family member. The statement of the victim was also recorded and her statement under Section 164(5) of Cr.P.C. simply disclose that she and the petitioner/accused had physical relationship three to four occasions, but she never asserted that it was a forcible relationship. The statement under Section 164(5) of Cr.P.C. is not only pertaining to uploading the photographs in the Instagram, but they were also pertaining to the intimacy and her close association with the family members of the petitioner/accused.

5. Apart from that it is also evident from the records that investigation is concluded and charge sheet has been laid down. The petitioner/accused himself is aged about 19 years and attending a examination which is evident from the order of the learned Special Judge but learned Special Judge rejected the claim on the ground that he can attend the examination by using option of parole. The records also disclose that the investigation is concluded and charge sheet has been already laid down. The presence of the petitioner/accused is no more required by the investigating agency. The petitioner/accused himself is aged about 19 years and if he is allowed to languish in the custody, there is every possibility of he coming in contact with hardcore criminals. The statement under Section 164(5) of Cr.P.C. the victim also discloses that she has no serious allegations against the petitioner/accused. Considering the facts and circumstances, it is also evident that victim was capable of understanding the things. The respondent No.2 though served is unrepresented. Considering these facts and circumstances, I do not find any impediment for admitting petitioner on bail. The other apprehensions raised by the learned High Court Government Pleader can be meted-out by imposing certain conditions. Hence, the petition needs to be allowed. Accordingly, I proceed to pass the following:

**ORDER**

I. The petition is allowed.

II. The petitioner/accused is directed to be enlarged on bail in Crime No.99/2023 of Women Police Station, Hassan, registered for the offences punishable under Section 376 of IPC and Sections 5(l), 5(j) and 6 of the Protection of Child from Sexual Offences Act, 2012 (in short 'POCSO'), pending on the file of the Additional District and Sessions Judge and Fast Track Special Court-I at Hassan, on his executing a personal bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with one surety for the like-sum to the satisfaction of the trial Court, subject to the following conditions that:-

(i) He shall not indulge in any of the criminal activities

(ii) He shall not tamper the prosecution witnesses either directly or indirectly.

(iii) He shall co-operate for speedy disposal of the matter.