

(2017) 06 KAR CK 0071
In the Karnataka High Court
Case No : 200610 of 2017

Nagappa @ Nagaraj S/o Mudirangappa Shabke @ Namali
Vs

APPELLANT

The State of Karnataka

RESPONDENT

Date of Decision : 09-06-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 439](#) - Special powers of High Court or Court of Session regarding bail
[Protection Of Children From Sexual Offences Act, 2012](#), [Section 8](#)

Citation : (2017) 06 KAR CK 0071

Hon'ble Judges : B. A. Patil

Bench : SINGLE BENCH

Advocate : P.S.Malipatil, Sheshadri Jaishankar

Final Decision : Allowed

Judgement

1. This petition is filed by the petitioner/accused under Section 439 of Cr.P.C., seeking regular bail in Crime No.8/2017 of Surpur Police Station, Yadgir, registered for the offences punishable under Sections 366(A), 376, 511 and also for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012.

2. Brief facts leading to filing of the complaint are that, on 09.01.2017 at about 10.00 a.m., the complainant/victim girl was proceeding to school by walk and when she came near Bsavanna Temple, the petitioner came on a motorcycle bearing registration No.KA-33-9002 and informed her that her father had a snake bite and made her to sit on his motorcycle and took her into the land of one Siddappa Sakarati by stating that the said way lead to the said spot. Thereafter, petitioner by tying her hands and legs with duppatta tried to molest her and sexually assault her. At that time, the victim started making hue and cry. On hearing the same, owner of the land Siddappa Sakarati rushed to the spot. On seeing Siddappa Sakarati, the petitioner ran away from the spot. Thereafter,

the victim girl informed the alleged act of the petitioner to the said Siddappa Sakarati and subsequently, to her parents and thereafter, complaint was filed.

3. I have heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for respondent-State.

4. The main grounds urged by the learned counsel for the petitioner are that petitioner is innocent and he has been falsely implicated in this case without being any material. It is further contended that the provisions of Section 376 as well as POCSO are not attracted. It is further contended that the sketch, which has been produced along with charge sheet, indicates that the said place is a road there is no question of accused sexually assaulting on a public road. He further contended that accused-petitioner has been falsely implicated in this case because of the earlier enmity between the family of the complainant and the petitioner. He further contended that there is delay in filing the complaint. Charge sheet has been filed and the accused-petitioner is not required for the purpose of further investigation or interrogation. It is further contended that if the petitioner is released on bail, he is ready to abide by the conditions to be imposed by this Court and ready to offer sureties. On these grounds, he prays for allowing the petition.

5. On the contrary, learned High Court Government Pleader appearing for the respondent-State has vehemently contended that accused-petitioner by falsely stating that the victim girl's father had a snakebite, forcibly made her to sit on his motorbike and thereafter tying her hands and legs with dupatta and tried to sexual assault. He would contend that there is eyewitness to the alleged incident and alleged offence is serious offence. At this juncture, if the petitioner is released on bail, there is likelihood of he being absconded and he may not be available for trial. On these grounds, he prays for dismissal of the petition.

6. I have perused the FIR, complaint and other material produced along with the petition and also the grounds urged in the bail petition. The complaint averments disclose that victim girl was eloped by the petitioner on a motorbike and took her into the land of one Siddappa Sakaratti. Thereafter, petitioner by tying her hands and legs with dupatta tried to sexually assault her. But there is no material to show that the accused-petitioner has sexually assaulted her and no medical certificate has been produced whether the victim girl has sustained any injuries or she has been sexually assaulted by the petitioner. Earlier the accused-petitioner moved this Court for grant of bail in CrI.P.No.200338/2017. This Court while disposing the case on 15.03.2017 has given the liberty to the accused-petitioner to move the bail application after filing the charge sheet. Now charge sheet has been filed and investigation is completed. When charge sheet has already been filed and investigation is completed, then under such circumstances, I feel that if the accused- petitioner is released on bail by imposing stringent conditions, it would safeguard the interest of the prosecution and it would meet the ends of justice.

7. For the aforementioned reasons, the petition is allowed and petitioner/accused is ordered to be released on bail, subject to the following conditions:

- i) The petitioner shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) with two solvent sureties for the likesum to the satisfaction of the jurisdictional Court;
- ii) The petitioner shall not indulge in hampering the investigation or tampering the prosecution witnesses;
- iii) The petitioner shall make himself available to the Investigating Officer as and when required;
- iv) The petitioner shall mark his attendance before the Investigating Officer once in fortnight till trial is concluded;
- v) The petitioner shall appear before the Trial Court regularly on all the dates of hearing without fail.
- vi) The petitioner shall not leave the jurisdiction of the concerned Court without its prior permission.