

(2023) 09 KAR CK 0069
In the Karnataka High Court
Case No : Criminal Petition No. 7861 Of 2023

P.Deepak Kumar

APPELLANT

Vs

State Of Karnataka & Others

RESPONDENT

Date of Decision : 27-09-2023

Acts Referred:

Indian Penal Code, 1860 — Section 354A
Protection Of Children From Sexual Offences Act, 2012 — Section 11(2)(b), 12
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2023) 09 KAR CK 0069

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Shobha Salamantapi, Sowmya R, Prashanth V.G

Final Decision : Allowed

Judgement

S Vishwajith Shetty, J

1. Accused in Spl.C.C.No.979/2023, pending before the Fast Track Court – I, Additional City civil and Sessions Judge, Bengaluru, arising out of crime No.145/2023 registered by Yelahanka Police, Bengaluru City, for the offences punishable under Section 354A of the IPC and Sections 11(2)(b) and 12 of the POCSO Act, is before this Court under Section 439 of the Cr.P.C.

2. Heard the learned counsel for the parties.

3. On the basis of the complaint dated 06.04.2023, by Astrid Tengzelius, wife of Sebastian Tengzelius, FIR in crime No.145/2023, was registered by Yelahanka Police, Bengaluru, for the aforesaid offences against unknown person. In the complaint it is stated that, on the night of 06.04.2022, at about 1.13 a.m., the minor daughter of the complainant screamed and hearing her, the complainant and her husband woke up. Immediately, the complainant and her husband went towards the room of their minor daughter and on enquiring her, she informed them that a person had entered into her room and had woken her up by the

flash light of the mobile. She also informed that the said person showed her the photograph of a woman with big breasts in his mobile. He also tried to touch her but when she screamed, he had left the place. Based on the said complaint, FIR in crime No.145/2023 was registered against unknown person. During the course of investigation, the petitioner who is a security guard of the apartment in which the complainant and her family are residing was arrested on 06.04.2023 and remanded to judicial custody. Investigation is complete and charge sheet has been filed. The bail petition filed by the petitioner before the Court of FTSC-1, Additional City Civil and Sessions Judge, Bengaluru, in CrI.Misc.No.5516/2023 was rejected by order dated 16.08.2023. Therefore, the petitioner is before this Court.

4. Learned counsel for the petitioner submits that the petitioner is in custody since 06.04.2023 and the maximum punishment for the alleged offences is imprisonment for three years.

5. Learned counsel for the defacto complainant opposes the bail petition. The petitioner is identified by CCTV footage and trial in Spl.C.C.No.979/2023 has already commenced and victim girl has been examined. The petitioner hails from Bihar State and therefore, it would be difficult to secure his presence. He prays to dismiss the petition.

6. Learned High Court Government Pleader also opposes the petition and prays for dismissal of the petition.

7. The FIR in crime No.145/2023 was registered by Yelahanka Police, Bengaluru, for the aforesaid offences against unknown person. The petitioner was arrested on 06.04.2023. He was working as security guard in the apartment in which the complainant and her family are residing. Investigation in the case is complete and the charge sheet has been filed. The maximum punishment for the alleged offences is imprisonment for three years. The petitioner who has no criminal antecedents is in custody since 06.04.2023. The apprehension of the defacto complainant as well as the learned High Court Government Pleader can be taken care by imposing stringent conditions.

8. Under the circumstances, I am of the view that the petitioner has made out a prima facie case for grant of regular bail. Accordingly, the petition is allowed. The petitioner is directed to be enlarged on bail in Crime No.145/2023, registered by the Yelahanka Police, pending on the file of the Fast Track Court – I, Additional City Civil and Sessions Judge, Bengaluru, for the offences punishable under Section 354A of the IPC and Sections 11(2)(b) and 12 of the POCSO Act, subject to the following conditions:

a) Petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (one lakh only) with one surety, 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 involve in similar offences in future;

e) 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.