

(2024) 11 KAR CK 0012
In the Karnataka High Court
Case No : Criminal Petition No. 9012 Of 2024

Prajwal & Others

APPELLANT

Vs

State By Malavalli Town Police Station, Rep By State Public
Prosecutor High Court Of Karnataka Bengaluru 560001 & Ors

RESPONDENT

Date of Decision : 21-11-2024

Acts Referred:

Indian Penal Code, 1860 — Section 114, 307, 323, 324, 354, 354(A), 354(D), 376(2)(i)(n), 392, 504, 506
Protection Of Children From Sexual Offences Act, 2012 — Section 4, 6, 10, 12, 17</l>
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2024) 11 KAR CK 0012

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Keshav R Agnihotri, Diwakara Maddur

Final Decision : Dismissed

Judgement

S Vishwajith Shetty, J

1. The accused Nos.1 to 3 in Spl.Case No.153/2024 pending before the Court of Additional District & Sessions Judge, FTSC-II, Mandya arising out of Crime No.28/2024 registered by Malavalli Town Police Station, Mandya for offences punishable under Sections 323, 324, 354(A), 354(D), 504, 114, 506, 376(2)(i)(n) of IPC and Sections 4, 6, 10, 12 and 17 of POCSO Act, are before this Court under Section 439 of Cr.P.C., seeking regular bail.

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

3. Respondent No.2, who is served in the matter, has been remained unrepresented before this Court.

4. First Information Report in Crime No.28/2024 was registered by the Malavalli Town Police Station, Mandya against the petitioners herein and another for the

aforesaid offences on the basis of the first information dated 29.03.2024 received from the respondent No.2, who is aunt of the victim girl aged about 14 years. During the course of investigation of the case, petitioners herein who were arraigned as accused Nos. 1 to 3 in the FIR were arrested on 29.03.2024 and subsequently remanded to judicial custody. Investigation of the case is completed and charge sheet is filed against four persons. Petitioners herein are arrayed as accused Nos. 1 to 3. Bail applications filed by the petitioners before the trial court in Spl.C.No.153/2024 was rejected on 09.07.2024. Therefore, they are before this Court.

5. Learned counsel for the petitioners, having re-iterated the grounds urged in the petition, submits that a false case has been registered against the petitioners herein since they had earlier filed complaints against police officials. He submits that petitioners are youngsters who have no criminal antecedents. Investigation of the case is already completed and charge sheet has been filed. Their custody is no more required. He accordingly, prays to allow the petition.

6. Per contra, learned High Court Government Pleader has opposed the petition. He submits that accused Nos. 1 to 3 have all committed penetrative sexual assault on the victim girl aged about 14 years and accused No.1 is a person with criminal antecedents having 7 criminal cases registered against him. He submits that the trial court has already issued witness summons to CW1 and CW2, who are the first informant and the victim girl. At this stage, if the petitioners are enlarged on bail, chances of they tampering with the charge-sheet witnesses and threatening the charge-sheet witnesses cannot be ruled out. Accordingly, he prays to dismiss the petition.

7. A perusal of the first information as well as the charge-sheet filed in the present case would go to show that victim girl aged about 14 years is first informant's sister's daughter. Nagesh Kumar, who is a juvenile was following the victim girl and pestering her to love him. He had informed accused No.1 that he was in love with the victim girl. The victim girl, while going to school, used to pass the house of accused No.1 regularly. On 15.02.2024, when the victim girl was returning from her school, accused No.1, who was in front of his house, called the victim girl inside his house and enquired her whether she was in love with Nagesh. When she stated that she was not interested to talk to Nagesh, accused Nos.1, 2 and 3 threatened the victim and accused No.1 allegedly pulled her towards him and kissed her and informed the victim girl that the said act was recorded in his mobile phone and threatened her that the same would be uploaded in social media. Thereafter, accused Nos. 1 to 3 were threatening the victim girl and they were taking her to the house of the accused No.1 and by blackmailing her they had sexual intercourse with her forcibly. Accused Nos. 1 to 3, on various dates had sexual intercourse with the victim girl by threatening and blackmailing her. On 28.03.2024, when accused Nos. 1 to 3 had taken the victim girl inside the house of accused No.1, the first informant who came in search of the victim girl, having learnt that the victim girl was inside the house of accused

No.1, went inside the said house and found that accused persons were sexually assaulting the victim girl. When the first informant questioned accused persons and tried to interfere, she was allegedly assaulted by the accused persons.

8. A perusal of the material on record would go to show that petitioners herein who are arrayed as accused Nos. 1 to 3 in the FIR as well as in the charge sheet have sexually assaulted the victim girl on various dates inside the house of accused No.1 by threatening and blackmailing her. Accused No.1 is a person with criminal antecedents having 7 criminal cases registered against him which includes offences punished under Sections 307, 392, 354 and other serious offences punishable under the provisions of Indian Penal Code. The order sheet of the trial court would go to show that the trial court has now issued witness summons to CW1 and CW2, who are the first informant and the victim girl, respectively. At this stage, if the petitioners are enlarged on bail, the apprehension expressed by the learned HCGP that they might tamper with the prosecution witnesses cannot be ruled out considering the background of the accused persons. The petitioners have committed heinous offences and considering the gravity of the offences, I am of the opinion that their prayer for grant of regular bail needs to be rejected.

Accordingly, petition dismissed.