

(2024) 04 KAR CK 0042
In the Karnataka High Court
Case No : Criminal Petition No. 3128 Of 2024

Prasanna G. H

APPELLANT

Vs

State By Ramanagara, Women P. S. Rep By State Public
Prosecutor, High Court Of Karnataka, Bangalore - 560001 &
Others

RESPONDENT

Date of Decision : 22-04-2024

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 376(2)(n)
Protection Of Children From Sexual Offences Act, 2012 — Section 4(2), 5(j), 5(L), 6
Prohibition Of Child Marriage Act, 2006 — Section 9

Citation : (2024) 04 KAR CK 0042

Hon'ble Judges : Rajendra Badamikar, J

Bench : Single Bench

Advocate : Gopala Gowda B. H., K. Nageshwarappa, Sowmya J

Final Decision : Allowed

Judgement

Rajendra Badamikar, J

1. The petitioner has filed this petition under Section 439 of Cr.P.C. for enlarging him on bail in Ramanagara Women Police Station in Crime No.146/2023 (Spl.C.C.No.32/2024) registered for the offences punishable under Sections 376(2)(n) of IPC, and under Sections 4(2), 5(L), 5(j) and 6 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO' Act), and under Section 9 of the Prohibition of Child Marriage Act, 2006 pending on the file of I Addl. District and Sessions Judge, Ramanagara.

2. Heard the learned counsel for the petitioner and learned HCGP as well as learned counsel for respondent No.2. Perused the records. Learned counsel for respondent No.2 has filed an affidavit stating that the petitioner was married to the victim girl during her minority and now even they are prepared to arrange marriage after victim girl attaining the age of majority.

3. The allegations of the prosecution disclose that the petitioner and victim girl were in love with each other and the victim girl was minor, as a result the family members opposed their marriage. It is alleged that on 20.03.2023, the petitioner having knowledge that victim is a minor eloped with the victim girl by enticing her and took her to Dharmasthala, wherein he married her. Later on, he took her to the house of his friend Nagesh, in Kenakuppe Village of Hunasuru Taluk, wherein he had committed aggravated penetrative sexual assault on the victim girl having knowledge that she is minor, as a result victim became pregnant. Then she was brought to the hospital wherein considering her age and pregnancy, matter was reported to the concerned police. Meanwhile the pregnancy was also terminated. When the matter was reported by the hospital authorities to CDPO she lodged a complaint. On the basis of the complaint FIR came to be registered and petitioner was arrested and remanded to custody. Meanwhile investigation is also concluded and charge sheet has been laid down. The petitioner has also approached the learned Sessions judge/Spl. judge and the learned Sessions judge/Spl. judge has rejected the bail petition. Hence, the petitioner is before this Court.

4. The allegations of the prosecution disclose that the petitioner eloped with the minor victim girl and got tied nuptial knot with her in Dharmasthala and later on, he committed aggravated penetrative sexual assault on her in the house of his friend Nagesh, in Kenakuppe Village, Hunasuru Taluk, resulting in pregnancy of the victim girl. It is also evident from the records that subsequently, the victim girl was admitted to the hospital due to pregnancy and she was aborted on 24.12.2023, when the pregnancy was at the stage of four months and on 26.12.2023, the product of conception was sent to FSL for DNA profile.

5. However, now by filing an affidavit virtually the petitioner has admitted his relationship with the victim girl. They are already married and it is admittedly a child marriage which has no sanctity in the eye of law. However, now the minor guardian of the victim girl has come forward and filed an affidavit stating that they are now prepared to perform the marriage of the victim girl with the petitioner on her attaining the age of majority. Even the petitioner has also filed an affidavit. The records also disclose that after noticing the pregnancy, the family members have not lodged any complaint, but a complaint was lodged by CDPO. Hence, it is evident that the family members have accepted the petitioner and victim girl as husband and wife.

6. Considering these subsequent developments, I do not find any impediment for admitting the petitioner on regular bail as it is the victim girl who is now suffering. The other apprehensions raised by the learned HCGP can be meted out by imposing certain conditions. Hence, the petition needs to be allowed and 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.146/2023 (Spl.C.C.No.32/2024) of Ramanagara Women Police Station registered for the offences punishable under Sections 376(2)(n) of IPC and under Sections 4(2), 5(L), 5(j) and 6 of 'POCSO' Act and under Section 9 of the Prohibition of Child Marriage Act, 2006, pending on the file of I Addl. District and Sessions Judge, Ramanagara, 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 Spl. 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 attend the Court on all the dates of hearing, unless he is exempted by a specific order.

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

(v) In case the petitioner fails to comply any of these conditions as well as undertaking given regarding his marriage with the victim girl, the respondent No.2 or the State as the case may be, are at liberty to approach this Court for cancellation of the bail.