

(2023) 11 KAR CK 0003
In the Karnataka High Court
Case No : Criminal Petition No. 7530 Of 2023

Prazwal

APPELLANT

Vs

State Of Karnataka By Basavapatna Police Station,
Davanagere, Represented By State Public Prosecutor, High
Court Buildings, Bangalore-560001 & Others

RESPONDENT

Date of Decision : 02-11-2023

Acts Referred:

Indian Penal Code, 1860 — Section 366(A), 376
Protection Of Children From Sexual Offences Act, 2012 — Section 6
Child Marriage Restraint Act, 1929 — Section 9
Code Of Criminal Procedure, 1973 — Section 164, 439

Citation : (2023) 11 KAR CK 0003

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Chakravarthy T.S, Rahul K. Rai

Final Decision : Allowed

Judgement

S Vishwajith Shetty, J

1. Accused in Special Case No.298/2023 pending before the Court of Additional District and Sessions Judge, FTSC-1, at Davanagere for the offences punishable under Sections 366(A) and 376 of IPC, Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('the POCSO Act' for short) and Section 9 of the Child Marriage Restraint Act is before this Court under Section 439 of Cr.P.C.
2. Heard the learned counsel for the parties.
3. Respondent No.2 who is served in the matter has remained absent.
4. On the basis of the complaint dated 06.04.2023 lodged by Chandrappa, who is the father of the victim girl, FIR in Crime No.50/2023 was registered by Basavapatna Police Station, Santhebennur Circle, Davanagere against unknown persons for the offences punishable under Sections 366(A) and 376 of IPC,

Section 6 of the POCSO Act and Section 9 of Child Marriage Restraint Act.

5. During the course of investigation, the petitioner and the victim girl were traced on 09.04.2023 and the petitioner was produced before the Court and remanded to judicial custody. The victim girl was subjected to medical examination and her statement under Section 164 of Cr.P.C. was also recorded. Investigation in the case is completed and charge sheet has been filed. The petitioner had filed the bail application before the trial Court in Special Case No.298/2023 and the same was rejected on 20.07.2023. Therefore, the petitioner is before this Court.

6. Learned counsel for the petitioner having reiterated the grounds urged in the petition submits that the petitioner and the victim girl are in love and the victim girl has not supported the case of the prosecution. During the course of recording her statement under Section 164 of Cr.P.C. and during her medical examination, she has not made any allegation against the petitioner. Accordingly, he prays to allow the petition.

7. Per contra, learned HCGP has opposed the bail application.

8. The material on record would go to show that FIR in Crime No.50/2023 by Basavapatna Police Station, Santhebennur Circle, Davanagere was registered against unknown persons for the offences punishable under Sections 366(A) and 376 of IPC, Section 6 of the POCSO Act and Section 9 of the Child Marriage Restraint Act. During the course of investigation, the petitioner and the victim girl were traced on 09.04.2023. The victim girl was subjected to medical examination and before the Doctor, who has medically examined her, she has not made any serious allegation against the petitioner. Her statement was recorded by the Jurisdictional Magistrate under Section 164 of Cr.P.C. on 21.04.2023 and the victim girl has stated that she was in love with the petitioner and on 05.04.2023, she had voluntarily gone with the petitioner and thereafter, they got married. She has also stated that with her consent, they had sexual intercourse. Thereafter, the petitioner and the victim girl themselves had gone to the police station. The petitioner, who is a youngster, without any criminal antecedent is in judicial custody from 05.04.2023 onwards. The investigation is completed and charge-sheet is filed and the allegation against the petitioner is required to be proved in a full-fledged trial. Under these circumstances, I am of the view that the petitioner has made out a prima facie case for grant of regular bail. Accordingly, I proceed to pass the following:

ORDER

The petition is allowed. The petitioner is directed to be enlarged on bail in Crime No.50/2023 registered by Basavapatna Police Station, Santhebennur Circle, Davanagere for the offences punishable under Sections 366(A) and 376 of IPC, Section 6 of the POCSO Act and Section 9 of the Child Marriage Restraint Act, subject to the following conditions:

- a) The petitioner shall execute personal bond for a sum of Rs.1,00,000/- (one lakh) with two sureties 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.