
(2014) 02 KAR CK 0262
In the Karnataka High Court
Case No : Criminal Petition No. 211/2014

Smt. Venkatamma and Mr. Santhesha	APPELLANT
Vs	
The State of Karnataka	RESPONDENT

Date of Decision : 03-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 34, 344, 363, 376

Citation : (2014) 02 KAR CK 0262

Hon'ble Judges : Budihal R.B., J

Bench : Single Bench

Advocate : A.K. Subbaiah, Advocate for the Appellant; K. Nageshwarappa, HCGP, Advocate for the Respondent

Final Decision : Allowed

Judgement

Budihal. R.B., J.—This petition is filed by petitioners-accused Nos. 2 & 1 respectively u/s 439 of Cr.P.C. seeking their release on bail of the offences punishable under Sections 363, 344, 376 r/w Section 34 of IPC registered in respondent-police station Crime No. 588/2013.

2. Heard the arguments of the learned counsel appearing for the petitioners-accused and also the learned Government Pleader for the respondent-State.

3. Learned counsel for the petitioners during the course of his arguments submitted that the victim girl on 28.11.2013 has appeared before the police and stated that her parents are intending to perform her marriage against her wish; she is of 17 years and that she is not willing to marry as per the say of her parents. Thereafter, subsequently, it is stated that petitioner No. 1 kidnapped the victim girl and petitioner No. 2 Santhosh has committed forcible sexual intercourse on her. Hence, he has submitted that the statement given by the victim girl before the police on 28.11.2013 itself goes to show that the petitioners have been falsely implicated in the present case. Hence, he submitted that by imposing-reasonable conditions, petitioners may be enlarged on bail.

4. As against this, learned Government Pleader during the course of his arguments submitted that the statement of victim girl and also her mother shows that victim was taken by petitioner No. 1, mother of petitioner No. 2 to the house of one Shashikala and when the victim was alone in the house, petitioner No. 2-Santhosh has committed forcible sexual intercourse on her. The matter is still under investigation and the Investigating Officer has to collect some more material. The victim girl was not examined by the Doctor on the ground that when she was taken to the Doctor she was under menstruation cycle. Hence, detailed medical report is also to be received by the investigating officer. As such, at this stage, petitioners are not entitled to be released on bail.

5. Perused the averments made in the petition, FIR, complaint and other materials placed on record.

6. It is no doubt true that the petitioners have produced one letter said to have been addressed by the victim girl to the Superintendent of Police, Mandya District, wherein it is stated that her parents are giving cruel treatment to her and forcing her to get married against her will. However, the statement of the victim girl recorded by the Investigating Officer during investigation prima facie goes to show that she was taken by petitioner No. 1 to the house of one Shashikala and she was kept there and when she was so staying in the house of one Shashikala, petitioner No. 2 has committed rape on her.

7. Since it is submitted by the learned Government Pleader that detailed medical examination report of the victim girl is yet to be received and the matter is also still under investigation and the Investigating Officer has to record the statement of some more witnesses, at this stage, I am of the opinion that petitioner No. 1-accused No. 2 is entitled to be released on bail, in view of the only allegation against her that she took the victim girl to the house of one Shashikala.

8. In so far as accused No. 1, who is petitioner No. 2 herein is concerned, he shall renew his request after receiving the detailed medical examination report and also the Investigating Officer recording the statement of some other witnesses. Hence, petition in respect of petitioner No. 2/accused No. 1-Santhosh is rejected at this stage.

9. Petition in respect of petitioner No. 1/accused No. 2-Venkatamma is allowed. She is ordered to be released on bail of the offences punishable under Sections 363, 344, 376 r/w Section 34 of IPC registered in respondent-police station. Crime No. 588/2013, subject to the following conditions:

(i) Petitioner No. 1-Venkatamma shall execute personal bond for Rs. 50,000/- and one surety for the like sum to the satisfaction of the concerned Court.

(ii) She shall not tamper with any of the prosecution witnesses directly or indirectly.

(iii) She shall appear before the concerned Court regularly.