

(2011) 07 KAR CK 0016

In the Karnataka High Court

Case No : Criminal Petition No. 3833 of 2011

Sri Bharath D.H. rep. by His Natural Father and guardian Sri
Ramakrishna D.H.

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 11-07-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 34, 363

Citation : (2011) 07 KAR CK 0016

Hon'ble Judges : C.R. Kumaraswamy, J

Bench : Single Bench

**Advocate : Sriyuths, Shreeshail Turkani and S.K. Nawaz, for the Appellant;
Sathish R. Girji, High Court Government Pleader, for the Respondent**

Final Decision : Allowed

Judgement

C.R. Kumaraswamy, J.—This Criminal Petition is filed u/s 438 of Code of Criminal Procedure praying to enlarge the Petitioner on bail in the event of his arrest in Crime No. 73/2011 of Vyalikaval Police Station, Bangalore, for the offences punishable u/s 363 read with Section 34 of Indian Penal Code.

2. I have heard the learned Counsel for the Petitioner as well as the learned High Court Government Pleader.

3. I have perused the copy of the FIR. The contents of the FIR discloses that Vyalikaval Police have registered a case in Crime No. 73/2011 against accused No. 1-Ganesh, accused No. 2-Bharat for the offences punishable u/s 363 read with Section 34 of Indian Penal Code on the complaint of Sri. Raghavendra.

4. Statement of the Victim Swathi, aged about 17 years is recorded. Her statement discloses that Raghavendra is her father and Veena is her mother. They were living at Malleshwaram 18th Cross. She was studying in Pre-University at Ammanni College. Swathi came to be acquainted with one Ganesh who was

working as a Photographer. Both the victim and Ganesh used to talk frequently. Then they developed friendship. During this period, Ganesh expressed his liking towards the victim. For that, the victim did not agree and told that they can be of good friends. They used to talk frequently. About 8 to 9. months back, parents of Swathi came to know about this and they abused Ganesh. Thereafter Ganesh presented Nokia mobile phone with Idea sim card to the victim and they used to talk without bringing the same to the notice of her parents. Then the victim gave mobile to her friend Divya.

5. It is further stated that on 30.5.2011 at about 8.45 p.m. the victim came along with her father to the house. Divya telephoned her and told that Ganesh wanted to talk to her. Then she went to Divya's house and Ganesh and Bharat were waiting there in Omni vehicle bearing registration No. KA-04-MG-2320. Then the victim spoke with Ganesh. Then Ganesh told her that he will marry her. At that time, she saw her father, mother and sister coming there. Seeing this, victim and Ganesh were frightened. Then Ganesh told Bharat to proceed and Bharat drove the Van. The victim told that she wants to go back to her house. But Ganesh did not heed to her words and he told that he will marry her and forcibly took her. Thereafter, Bharat dropped them near Majestic in the night at about 11'o clock. They went in a Bus to Velore, Tamil Nadu. That on 31.5.2011 at Golden Temple, Ganesh tied Tali to her. Then they stayed in a Hotel and Ganesh had forcible sexual intercourse with her. On 1.6.2011, both the victim and Ganesh left the lodge. Then they came back to Bangalore at 8 p.m. He brought the victim to Margosa Road. At that time, Vyalikaval Police arrested Ganesh.

6. The allegation made against accused No. 2 is that he dropped the victim to Majestic Bus Stand. Thereafter accused No. 1 and victim went to Velore, Tamil Nadu. The statement of the victim discloses that she was in love with accused No. 1 and the victim voluntarily went with accused No. 1 to Velore. There the marriage between accused No. 1 and the victim was performed. The role played by this Petitioner is that he dropped the victim and accused No. 1 to Majestic Bus Stand. Except this, there are no other allegations made against this Petitioner.

7. It is the contention of the learned Counsel for the Petitioner that Petitioner is a student studying matriculation. Taking into consideration that there was love affair between the victim and accused No. 1 and also since if the Petitioner is arrested and allowed to mix with hard-core criminals, he may become a hardened criminal, therefore, in my view, the Petitioner is entitled for anticipatory bail, at this stage.

8. In the result, I pass the following:

ORDER

This Criminal Petition is allowed conditionally. The Petitioner is granted with anticipatory bail. The Respondent-Police are directed to release the Petitioner on bail in the event of his arrest in Crime No. 73/2011 of Vyalikaval Police Station

on his executing a personal bond for a sum of `10,000/- with two sureties for the likesum to the satisfaction of the Respondent-Police on the following conditions.

- i) The Petitioner shall not tamper with the prosecution witnesses nor hamper the investigation in any manner.
- ii) He shall make himself available for the Respondent-Police as and when required by them for the purpose of investigation.
- iii) He shall mark the attendance before the Respondent-Police once in a week till filing of charge sheet.
- iv) He shall not commit similar offence.
- v) He shall not jump bail.
- vi) If any of the conditions is violated, the anticipatory bail entails cancellation.
- vii) Intimate the concerned accordingly.