

Karnataka High Court State Of Karnataka vs Naveena A.T. on 22 February, 2016 Author: A.V.Chandrashekara -1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF FEBRUARY 2016

BEFORE

THE HON'BLE MR.JUSTICE A.V.CHANDRASHEKARA

CRIMINAL PETITION NO.8923/2015

BETWEEN:

STATE OF KARNATAKA, BY ALDUR POLICE, REPRESENTED BY, STATE PUBLIC PROSECUTOR, HIGH COURT, HIGH COURT BUILDING, BENGALURU. ... PETITIONER

(BY SRI.B.J. ESWARAPPA, HCGP)

AND:

NAVEENA A.T. S/O LATE THIMMAIAH, AGED ABOUT 20 YEARS, TILES WORK, R/O AMBLE VILLAGE & HOBLI, CHIKKAMAGALURU TALUK 577 111. .. RESPONDENT

(BY SRI.N.R. RAVI KUMAR, ADV.)

THIS CRIMINAL PETITION IS FILED UNDER SECTION

439 (2) CR.P.C. PRAYING TO SET ASIDE THE ORDER DATED 16.6.2015 PASSED IN SPL. CASE (PCSOA) NO.13/2015 BY THE I ADDL. S.J., AT CHIKKAMAGALURU, GRANTING BAIL TO THE RESPONDENT/ACCUSED FOR THE OFFENCE UNDER SECS.448, 506, 363, 376 OF IPC -2-

AND UNDER SECTION 4, 5(1) OF POCSO ACT AND CANCEL THE SAID ORDER OF BAIL AND DIRECT THAT THE ACCUSED BE ARRESTED AND COMMITTED TO CUSTODY.

THIS CRIMINAL PETITION IS COMING ON FOR

ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Heard the learned Government Pleader and counsel for the Respondent-accused. 2. Present petition is filed under Section 439(2) of Cr.P.C. requesting this Court to set aside the order dated 16/06/2015 passed in SPL. Case (PCSOA) No.13/2015, granting bail to the respondent-accused for the offence punishable under Sections 448, 506, 363 & 376 of IPC and under Sections 4 & 5(1) of POCSO Act and cancel the bail granted in favour of respondent- accused herein by the I Additional Sessions Judge at Chikkamagaluru under Section 439 of Cr.P.C. 3. Admittedly, the offences alleged against the respondent-accused are punishable under Sections 448, 506, 363 & 376 of IPC and under Sections 4 & 5(1) of POCSO Act. 4. Bail application filed by the respondent- accused has been allowed by the Court of the I Additional Sessions Judge at Chikkamagaluru on 16/06/2015 in Special Case (PCSOA) No.13/2015. 5. The case on hand relates to the respondent- accused kidnapping a minor girl who is aged about 17 years and forcibly committing rape on her. During the investigation, the victim girl and respondent accused were traced on 19/12/2014 and Investigating Officer has recorded the statement of the victim girl. She has clearly stated that, there was no force by the accused to commit rape on her. She has given the statement before the learned Magistrate. The victim girl is aged about 17 years and she was pregnant. He is in judicial custody since 20/12/2014. The investigation is over and the charge sheet has been filed against the respondent- accused. 6. Perused the records. 7. The learned Judge of the First Appellate Court has allowed the bail application of the respondent - accused in accordance with law keeping in mind the decision rendered in the case of Masroor V/s State of Uttar Pradesh and Another reported in 2009(14) SCC 286. 8. While granting bail, elaborate and cogent reasons have been assigned. Hence, no good grounds are made out to cancel the well considered order. Therefore, the petition is liable to be dismissed without expressing any opinion on the merits of the case at this stage. Whatever observation is made by the learned Judge is limited to the extent of disposing of the bail application. This is not a fit case to exercise the discretion vested under Section 439(2) of Cr.P.C. at this Stage. Accordingly, application filed for cancellation of bail is dismissed. Sd/- JUDGE MS*