

Sri. Chandrashekar Reddy vs The State Of Karnataka on 19 December, 2024

Author: S Vishwajith Shetty

Bench: S Vishwajith Shetty

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NC: 2024:KHC:52777

CRL.P No. 12700 of 2024

C/W CRL.P No. 12685 of 2024

CRL.P No. 13661 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 19TH DAY OF DECEMBER, 2024
BEFORE

THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY
CRL. P No. 12700/2024

C/W

CRL. P Nos. 12685/2024, 13661/2024

IN CRL.P No. 12700/2024:

BETWEEN:

SRI SOMASHEKAR V
S/O VENKATESHAIAH
AGED ABOUT 48 YEARS
R/O NO.235, VENAKTESHWARA
ENTERPRISES, VIDYANAGAR
CROSS,BETTAHALASOUR POST
BENGALURU - 562 157.

...PETITIONER

(BY SRI SUMANTH L BHARADWAJ, ADV.)

AND:

Digitally
signed by
NANDINI MS
Location:
High Court of
Karnataka

1. THE STATE OF KARNATAKA

BY CHIKKAJALA POLICE STATOIN

REP BY SPP, HIGH COURT OF KARNATAKA
BENGALURU - 560 001.
2. SMT. SOWMYA N
POLICE INSEPCTOR
CCB, WOMENS PROTECTION CELL
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI RAHUL RAI K, HCGP FOR
SRI HARSHITH B, ADV., FOR DEFACTO COMPLAINANT)
THIS CRL.P IS FILED U/S 438 CR.P.C (U/S 482 BNSS)
PRAYING TO DIRECT THE RESPONDENT POLICE TO RELEASE

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CRL.P No. 12700 of 2024

C/W CRL.P No. 12685 of 2024

CRL.P No. 13661 of 2024

THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN
CONNECTION WITH CR.NO.213/2024 ON THE FILE OF COURT
OF THE FTSC-1, ADDITIONAL CITY CIVIL AND SESSIONS
JUDGE, BENGALURU, FOR THE OFFENCES P/U/S 3,4,5 OF
IMMORAL TRAFFIC PREVENTION ACT, 1956, SEC. 4,8,6 OF
POCSO ACT, 2012, SEC. 143(2),143(3) OF BNS, 2023, THAT
REGISTERED BY THE RESPONDENT POLICE NO.1, BY
ALLOWING THIS PETITION.

IN CRL.P NO. 12685/2024:

BETWEEN:

1. SRI AJAY
S/O LATE THIMMESHAPPA
AGED ABOUT 44 YEARS
R/AT NO.645 PJ LAYHIOUT
7TH MAIN, 7TH CROSS
DVANAGERE - 577 001.
2. NAGENDRA REDDY
S/O LATE K.V. REDDY
AGED ABOUT 47 YEARS
R/AT NO.103, BALALJI RESIDENCY
B BLOCK, DAVANAGERE - 577 001.
3. BHARATHESH KUMAR S.M
@ BHARATH
S/O MYLARAPPA
R/AT 2721, I FLOOR, II MAIN
III CROSS, NEAR MISHRA PEDA
MCC B BLOCK, DVANAGERE - 577 001.

...PETITIONERS

(BY SRI K. PRASANNA SHETTY, ADV.)

AND:

1. STATE OF KARNATAKA BY
CHIKKAJALA P.S
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE - 560 001.

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CRL.P No. 12700 of 2024

C/W CRL.P No. 12685 of 2024

CRL.P No. 13661 of 2024

2. SOWMYA N
POLICE INSPECTOR
CCB WOMEN PROTECTION
FORCE BANGLORE - 560 021.

...RESPONDENTS

(BY SRI RAHUL RAI K, HCGP FOR
SRI HARSHITH B, ADV., FOR DEFACTO COMPLAINT)

THIS CRL.P IS FILED U/S.439 (FILED U/S.483 BNSS)
CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN
CRIME NO.213/2024 CHIKKAJALA P.S., REGISTERED BY
RESPONDENT POLICE, PENDING ON THE FILE OF THE
ADDL. C.C AND SESSIONS JUDGE, FTSC I BENGALURU FOR
THE ALLEGED OFFENCE P/US/ 3,4,5 OF IMMORAL TRAFFIC
PREVENTION ACT 1956 AND SEC.4,8,6 OF POCSO ACT AND
SEC.143(2) AND 143(3) OF BNS.

IN CRL.P NO. 13661/2024

BETWEEN:

SRI CHANDRASHEKAR REDDY
AGED ABOUT 46 YEARS
S/O NARASIMHA REDDY
C/O SUSHEELAMMAS RENTED HOUSE
NEAR GOVERNMENT SCHOOL
VIDHAYANGAR CROSS JALA HOBLI
BENGALURU - 560 057.

...PETITIONER

(BY SRI SUMANTH L BHARADWAJ, ADV.)

AND:

1. THE STATE OF KARNATAKA
BY CHIKKAJALA POLICE STATION
REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
BENGALURU - 560 001.

2. SMT. SOWMYA N

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CRL.P No. 12700 of 2024

C/W CRL.P No. 12685 of 2024

CRL.P No. 13661 of 2024

POLICE INSPECTOR
CCB, WOMENS PROTECTION CELL
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI RAHUL RAI K, HCGP FOR R-1;
SRI HARSHITH B, ADV., FOR DEFACTO COMPLAINT)

THIS CRL.P IS FILED U/S 439 CR.PC (FILED U/S 483 BNSS) PRAYING TO DIRECT THE RESPONDENT POLICE TO RELEASE THE PETITIONER ON REGULAR BAIL, WHO IS IN JUDICIAL CUSTODY SINCE 27.10.2024 IN CONNECTION WITH CR.NO.213 OF 2024 ON THE FILE OF COURT OF THE COURT OF THE FTSC-1, ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU FOR THE OFFENCE P/U/S 3, 4 AND 5 OF THE IMMORAL TRAFFIC PREVENTION ACT, 1956 AND SEC. 4, 8 AND 6 OF THE POCSO ACT, 2012 AND 143(2) AND 143(3) OF THE BNS, 2023 THAT REGISTERED BY THE RESPONDENT CHIKKAJALA POLICE STATION, BY ALLOWING THIS PETITION, ON SUCH TERMS AND CONDITIONS AS THIS HONBLE COURT MAY DEEM FIT TO IMPOSE IN THE CIRCUMSTANCES OF THIS CASE.

THESE PETITIONS, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

1. Accused Nos.2 to 6 in Crime No.213/2024 registered by Chikkajala Police Station, Bengaluru City, for the offences punishable under Sections 3, 4 and 5 of the Immoral Traffic Prevention Act, 1956, Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Sections 143(2) and 143(3) of the BNS, 2023, are before this Court in these NC: 2024:KHC:52777 three petitions filed under Section 482 and Section 483 of BNSS, 2023, seeking anticipatory bail and regular bail.

2. Heard the learned counsel for the parties.

3. FIR in Crime No.213/2024 was registered by Chikkajala Police Station, Bengaluru City, for the aforesaid offences against one Gopalareddy on the basis of the first information dated 25.10.2024 received from Sowmya N, Police Inspector, attached to CCB Women Protection Wing, Bengaluru. After registration of the FIR, raid was conducted to Hotel in which allegedly accused named in the FIR was carrying on the illegal business of prostitution and during the course of raid, accused Nos.1 to 5 were apprehended in the Hotel and a minor victim girl was rescued by the raiding squad. Apprehended accused were arrested and remanded to judicial custody. Accused Nos.2 to 4 had filed Crl.Misc.No.10119/2024 seeking regular bail before the jurisdictional Sessions Court which was rejected on 20.11.2024. Accused No.5, who is the Manager of the Hotel on which raid was

conducted, had filed Crl.Misc.No.10190/2024 before the jurisdictional Sessions Court which was rejected on 22.11.2024. Apprehending arrest in the said case, accused NC: 2024:KHC:52777 No.6, who is the owner of the Hotel on which raid was conducted, had filed Crl.Misc.No.10051/2024 before the jurisdictional Sessions Court which was rejected on 19.11.2024. Therefore, accused Nos.2 to 4 are before this Court in Crl.P.No.12685/2024, accused No.5 is before this Court in Crl.P.No.13661/2024 and accused No.6 is before this Court in Crl.P.No.12700/2024.

4. Learned counsel for the petitioners/accused Nos.2 to 4, submits that even if the allegations found in the statement of the victim girl recorded under Section 183 of BNSS, 2023, are presumed to be true, only offence punishable under Section 8 of the POCSO Act, 2012, will get attracted against them. They do not have any criminal antecedents. They are in custody from 27.10.2024. Major portion of the investigation in the case is completed. Accordingly, he prays to allow the petition.

5. Learned counsel for the petitioner/accused No.5 submits that accused No.5 is working as Manger in the Hotel on which raid was conducted. He has no criminal antecedents. He is in custody from 27.10.2024. Accordingly, he prays to allow the petition.

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5. Learned counsel for the petitioner/accused No.6 submits that accused No.6, is the owner of the Hotel to which raid was conducted and in the said Hotel there are 24 rooms. Merely for the reason that one of the rooms was misused by a customer for carrying on some illegal activities, the Hotel cannot be termed as 'brothel' within the meaning of Section 2(a) of the Immoral Traffic Prevention Act, 1956. He submits that accused No.6 has no criminal antecedents. He is ready and willing to cooperate with the police for the purpose of investigation. Accordingly, he prays to allow the petition.

6. Per contra, learned HCGP appearing for respondent No.1 and the learned counsel appearing on behalf of the guardian of the minor victim girl have opposed the petitions. Learned HGCP submits that offence punishable under the provisions of SC/ST (POA) Act, are also sought to be invoked in the present case and necessary application is filed before the jurisdictional Court seeking permission, which is granted.

7. Learned counsel appearing on behalf of the guardian of the minor victim girl, who has filed his statement of objections, submits that serious allegations are found against the accused NC: 2024:KHC:52777 persons and therefore, at this stage, their prayer for grant of regular bail and anticipatory bail cannot be granted. Investigation of the case is still under progress. He submits that the Hon'ble Supreme Court in the case of Pankaj Singh vs. The State of Punjab in Special Leave to Appeal (Crl.) No.3687/2021 disposed of 21.05.2021 has refused to grant anticipatory bail to the owner of the brothel in a case registered under the provisions of the Immoral Traffic Prevention Act, 1959, and therefore, the prayer made by accused No.6 cannot be granted.

8. FIR in the present case was initially registered against accused No.1 - Gopalreddy. Thereafter, a raid was conducted to a room in 'SV Dreams Stay Hotel', Brindavan Layout, Vidyanagara Cross,

Bengaluru, in which accused No.1 was allegedly carrying on illegal activities of prostitution by using minor girls. During the course of raid, accused Nos.1 to 5 were apprehended in the room of the Hotel and a minor girl was rescued. Accused Nos.2 to 4 are allegedly the customers, who were found in the room. Accused No.5 is the Manager, working in the said Hotel and accused No.6 is the owner of the Hotel.

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9. During the course of investigation of the case, statement of the victim girl aged about 17 years, was recorded under Section 183 of BNSS, 2023, by the jurisdictional Magistrate on 07.11.2024. In the said statement, victim girl has made allegation of committing penetrative sexual assault on her only as against accused No.1. She has also stated that at the instance of accused No.1, certain other persons also had sexual intercourse with her after paying money to her. She has further stated that on 26.10.2024, accused No.1 had sent her inside a room in which accused Nos.1 to 4 were present. When she was in the room, one amongst the four had asked her to sit on his lap and the said person allegedly had touched her body inappropriately. At that time, police came to the room and rescued her. From the aforesaid statement made by the victim girl under Section 183 of BNSS, 2023, it is very clear that on 26.10.2024, accused Nos.2 to 4 had gone to the room in SV Dreams Stay Hotel as customers and after the victim girl came inside the room, she was made to sit on the lap of one of the accused and the said accused allegedly had touched her body inappropriately. Except the said statement, there is no other allegation against accused Nos.2 to 4. Therefore, at best, the

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NC: 2024:KHC:52777 offence punishable under Section 8 of the POCSO Act, 2012, may get attracted against accused Nos.2 to 4. They are in custody from 27.10.2024. Major portion of the investigation in the case is completed. Undisputedly, they do not have any criminal antecedents and they are all youngsters. Accused No.5 is the Manager working in the aforesaid Hotel. Accused No.5 has no other criminal antecedents. He was arrested on the date of raid and ever since then, he is in custody. Accused No.6 is the owner of the Hotel to which raid was conducted on 26.10.2024. In one of the room in the Hotel belonging to accused No.6 which was booked by accused No.1, he was allegedly carrying on illegal business of prostitution using a minor girl.

11. The Hon'ble Supreme Court in the case of Pankaj Singh (supra) has refused to interfere with the order passed by the Hon'ble High Court of Punjab and Haryana, wherein anticipatory bail was rejected to the owner of the premises which was used for the purpose of carrying on illegal activities of prostitution. Accused No.6 is the owner of the Hotel comprising of 24 rooms and merely for the reason that one of the room was misused by a customer, the Hotel cannot be termed as 'brothel' within the

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NC: 2024:KHC:52777 meaning of Section 2(a) of the Immoral Traffic Prevention Act, 1956. There is nothing on record to suggest that accused No.1 was carrying on his illegal business of prostitution

with the knowledge and consent of accused No.6. Under the circumstances, I am of the opinion that the prayer made by the petitioners/accused Nos.2 to 6 for grant of anticipatory bail and regular bail needs to be answered affirmatively. Accordingly, the following order:-

12. The petitions are allowed. The petitioners/accused Nos.2 to 5 are directed to be enlarged on regular bail in Crime No.213/2024 registered by Chikkajala Police Station, Bengaluru City, for the offences punishable under Sections 3, 4 and 5 of the Immoral Traffic Prevention Act, 1956, Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Sections 143(2) and 143(3) of the BNS, 2023, subject to the following conditions:

a) Petitioners/accused Nos.2 to 5 shall execute a personal bond for a sum of Rs.1,00,000/- each with two sureties for the likesum, to the satisfaction of the jurisdictional Court;

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b) The petitioners/accused Nos.2 to 5 shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts their appearance for valid reasons;

c) The petitioners/accused Nos.2 to 5 shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioners/accused Nos.2 to 5 shall not involve in similar offences in future;

e) The petitioners/accused Nos.2 to 5 shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against them is disposed off.

13. The respondent - Police or any other police in the State of Karnataka are directed to release the petitioner/accused No.6 in the event of his arrest in Crime No.213/2024 registered by Chikkajala Police Station, Bengaluru City, for the offences punishable under Sections 3, 4 and 5 of the Immoral Traffic Prevention Act, 1956, Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Sections 143(2) and 143(3) of the BNS, 2023, subject to the following conditions:

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1. The Petitioner/accused No.6 shall appear before the Investigating Officer within 15 days from the date of receipt of the copy of this order and shall execute a personal bond for a sum of Rs.1,00,000/-

with two sureties for the likesum to the satisfaction of the investigating officer.

2. Petitioner/accused No.6 shall regularly appear before the Trial Court without fail unless exempted by the Trial Court for valid reasons.
3. Petitioner/accused No.6 shall not tamper with the prosecution witness and he shall co-operate with the police for investigation and appear before them whenever called upon.
4. The petitioner/accused No.6 shall not involve in similar offences in future;

SD/-

(S VISHWAJITH SHETTY) JUDGE DN