



**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH**

**DATED THIS THE 14<sup>TH</sup> DAY OF FEBRUARY, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE MOHAMMAD NAWAZ**

**CRIMINAL PETITION NO. 100092 OF 2023 (439)**

**BETWEEN:**

ALLABAKSHI S/O. KAREEM SAB,  
AGE: 25 YEARS, OCC: DRIVER,  
R/O: NEKAR COLONY H. B. HALLI.,  
DIST: VIJAYANAGAR.

...PETITIONER

(BY SRI. SRINIVAS B. NAIK., ADVOCATE)

**AND:**

THE STATE OF KARNATAKA REPRESENTED BY  
STATE PUBLIC PROSECUTOR HIGH COURT OF KARNATAKA  
DHARWAD BENCH,  
THROUGH HAGARIBOMMANAHALLI POLICE STATION,  
VIJAYANAGAR-580011.

...RESPONDENT

(BY SMT. GIRIJA S. HIREMATH., HCGP)

THIS CRIMINAL PETITION IS FILED U/SEC.439 OF CR.P.C.  
SEEKING TO GRANT REGULAR BAIL TO THE PETITIONER/ACCUSED  
NO.1 IN CRIME NO.107/2022 OF HAGARIBOMMANAHALLI POLICE  
STATION REGISTER FOR THE OFFENCES PUNISHABLE U/SEC.363,  
506, 364A, 109, R/W 34 OF IPC AND U/SEC.66 (C) OF INFORMATION  
AND TECHNOLOGY ACT.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE  
COURT MADE THE FOLLOWING:





**ORDER**

This petition is filed under Section 439 of Cr.P.C by accused No.1 seeking bail in Crime No.107/2022 of Hagaribommanahalli police station.

2. Charge sheet is filed against accused Nos.1 to 6 for offences punishable under Sections 363, 506, 364(A), 109 read with 34 of IPC and Section 66(c) of the Information Technology Act, 2008.

3. Heard the learned counsel for petitioner and the learned High Court Government Pleader for respondent/State and perused the material on record.

4. It is alleged that the accused persons hatched a plan to kidnap a boy and demand ransom for his release, in order to make illegal gain and in furtherance of the conspiracy hatched by them, on 03.07.2022 at about 2 p.m., accused No.1 kidnapped the grandson of CW-1, by name Adwik aged about 5 years who was playing near his house in Hagaribommanahalli and thereafter, he handed over the boy to accused Nos.3 and 4, who inturn took the boy as per the instructions of accused No.2, on a motorcycle bearing registration No.KA-35/L-382



towards Sakrahalli cross. Thereafter, accused No.2 along with accused No.5 took the boy to a land bearing Sy.No.337/A belonging to CW-14. Accused No.2 called CW-5, namely the father of the boy over phone and demanded a ransom of Rs.15 lakhs for the release of the boy. After negotiation, they agreed to receive Rs.3 lakhs and threatened CW-5 that if the ransom is not paid, they will shift the boy to some other place in a truck. It is further alleged that accused No.6 took a Sim in the name of CW-7, without his knowledge and using the said sim bearing No.9886414562, accused No.2 called boy's father i.e., CW-5 and demanded ransom for the release of the boy.

5. The learned counsel for petitioner has contended that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He submits that the entire case is based on circumstantial evidence and only after the arrest of the accused, statements of the witnesses are recorded. He submits that at this stage, there is no prima facie case against the petitioner and there are no material forthcoming which would connect the petitioner in the commission of the alleged crime. He further contends that the material collected does not disclose the ingredients of the



alleged offence. He submits that now the investigation is completed and charge-sheet is also filed. Petitioner is no more required for interrogation and therefore, by imposing any conditions, petitioner may be enlarged on bail.

6. The learned High Court Government Pleader has opposed the prayer for bail contending that the offence committed by the petitioner and other accused persons are heinous in nature wherein they have kidnapped a tender aged boy and demanded ransom for his release. She contends the victim boy has identified the petitioner as the one who kidnapped him from the place where he was playing. She further contends that if the petitioner is enlarged on bail, he may threaten the prosecution witnesses and thereby hamper the case of prosecution. She submits that the statement of the victim has been recorded under Section 164 Cr.P.C. and this Court has already rejected the prayer of accused Nos.2 to 5 seeking bail. She therefore, seeks to reject the petition.

7. It is the specific case of prosecution that all the accused hatched a plan and in furtherance of the same, they kidnapped a boy aged about 5 years and then called boy's



father and demanded Rs.15 lakhs for the release of the boy and later, on negotiation, brought down the demand to Rs.3 lakhs. They threatened him that if the said amount was not paid, they will shift the boy to some other place in a truck.

8. In this case, the victim's statement has been recorded under Section 164 Cr.P.C. by the learned Magistrate. He has stated that while playing near his house, he was taken to some land and he was assaulted there and then he was taken in a car etc. A perusal of his statement would reveal that he was kidnapped by the accused persons while he was playing near his house. The test identification parade has been conducted wherein, the victim has identified the accused persons including the petitioner herein who kidnapped him. The offence punishable under Section 364(A) IPC is punishable with death, or imprisonment for life, and shall also be liable to fine. There is a prima facie case made out against the petitioner. The offence alleged being heinous in nature and considering that petition of accused Nos.2 to 5 has been rejected, this is not a fit case to enlarge the petitioner on bail.



9. Petition is dismissed.

Liberty is reserved to the petitioner to file a petition on changed circumstances, if any.

**(Sd/-)  
JUDGE**

PJ,JM

List No.: 1 SI No.: 21