



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JANUARY, 2023

BEFORE

THE HON'BLE MRS JUSTICE M G UMA

CRIMINAL PETITION NO. 10825 OF 2022

BETWEEN:

H. R. SRIKANTA
S/O. H. S. RAJU,
AGED ABOUT 32 YEARS,
R/AT THAVALAGERI VILLAGE,
T. SHETTIGERI POST,
PONNAMPET TALUK,
KODAGU DISTRICT - 571 216.

...PETITIONER

(BY SRI: DHANANJAY KUMAR, ADVOCATE)

AND:

STATE OF GONNIKOPPA P.S.,
BENGALURU,
REP BY PP
HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.

...RESPONDENT

(BY SRI: H.S. SHANKAR, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN CR.NO.106/2022 OF GONNIKOPPA P.S., KODAGU DISTRICT FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 363, 376(2)(J), 114, 34 OF IPC AND SECTION 67(B) OF I.T ACT ON THE FILE OF THE CIVIL JUDGE AND J.M.C COURT, PONNAMPET, KODAGU.

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





ORDER

The petitioner-accused No.2 is before this Court seeking grant of anticipatory bail in Crime No.106/2022 of Gonikoppa Police Station, Kodagu, pending on the file of learned Civil Judge (Jr.Dn.) and JMFC Court, Ponnampet, Kodagu, registered for the offences punishable under Sections 363, 376(2)(J), 114 read with Section 34 of Indian Penal Code (for short 'IPC') and under Section 67(B) of the Information Technology Act, 2008 (for short 'IT Act'), on the basis of the first information lodged by the informant-Roopashree.H.P.

2. Heard Sri. Dhananjay Kumar, learned counsel for the petitioner and Sri. H.S.Shankar, learned High Court Government Pleader for the respondent-State. Perused the materials on record.

3. Learned counsel for the petitioner submits that the petitioner is arrayed as accused No.2. He is innocent and law abiding citizen. He has not committed any offence as alleged. He has been falsely implicated in the matter without any basis. There is reasonable apprehension of he being



arrested. Hence, he is before this Court. Learned counsel further submitted that the allegation for having committed the offences punishable under Sections 363, 376(2)(J), 114 read with Section 34 of IPC and under Section 67(B) of the IT Act, is against accused No.1. There is absolutely no material to connect the present petitioner to the offence in question except saying that the incident had taken place in the Guest House, where the present petitioner was working. Apart from that, there is nothing on record to suggest that the petitioner has committed any of the offence. Under such circumstances, he is not required for custodial interrogation. He is the permanent resident of the address mentioned in the cause-title to the petition. He is ready and willing to abide by any of the conditions that would be imposed by this Court. Hence, he prays to allow the petition in the interest of justice.

4. *Per contra*, learned High Court Government Pleader opposing the petition submitted that serious allegations are made against the petitioner for having committed the offence along with accused No.1. It is alleged



that the present petitioner has also joined hands with accused No.1 in commission of the offence. A detailed investigation is required to be undertaken. The petitioner is absconding since from the date of registration of the case. If he is granted anticipatory bail, he may never turn up before the Investigating Officer and he may abscond or may commit similar offences, threaten or tamper the prosecution witnesses. Therefore, the petitioner is not entitled for grant of anticipatory bail. Hence, he prays for dismissal of the petition.

5. In view of the rival contentions urged by the learned counsel for both the parties, the point that would arise for my consideration is:

"Whether the petitioner is entitled for grant of anticipatory bail under Section 438 of Cr.P.C.?"

My answer to the above point is in 'Affirmative' for the following:



REASONS

6. The informant aged 19 years, lodged first information against accused Nos.1 and 2. Serious allegations are made against accused No.1 regarding commission of sexual assault by kidnapping her. It is stated that the petitioner was working in the Guest House in question, where the incident has taken place and it is stated that accused No.1 took the informant inside the Guest House with the help of present petitioner. Apart from the same, there are no allegations found in the first information against the present petitioner. Considering the nature of allegation, I am of the opinion that the petitioner is not required for custodial interrogation. Hence, the petitioner may be granted anticipatory bail subject to conditions, which will take care of the apprehensions expressed by the learned High Court Government Pleader that the petitioner may abscond or may tamper or threaten the prosecution witnesses.

7. Accordingly, I answer the above point in the affirmative and proceed to pass the following:



ORDER

The petition is ***allowed.***

The petitioner is ordered to be enlarged on bail in the event of his arrest in Crime No.106/2022 of Gonikoppa Police Station, Kodagu.

The petitioner is directed to appear before the Investigating Officer within 15 days from the date of receipt of this order and on his appearance, the Investigating Officer shall enlarge him on bail subject to the following conditions:-

- a. The petitioner shall furnish the bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the likesum to the satisfaction of the Investigating Officer;
- b. The petitioner shall not commit similar offences;
- c. The petitioner shall appear before the Investigating Officer or the court as and when required; and
- d. The petitioner shall not threaten or tamper the prosecution witnesses.



On furnishing the sureties by the petitioner, the Investigating Officer is at liberty to verify the correctness of the address and authenticity of the documents furnished by him. On satisfaction of the said documents, he may proceed to accept the sureties within a reasonable time.

**Sd/-
JUDGE**

SMJ