



CRL.P No. 103365 of 2022

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 17TH DAY OF NOVEMBER, 2022

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION NO. 103365 OF 2022

BETWEEN:

SRI.K.CHANNABASAPPA ALIAS CHANNABASAVA
S/O K SOMAPPA
AGE. 26 YEARS, OCC. AGRICULTURE,
R/O. HALAGAPURA VILLAGE,
TAL. H B HALLI,
DIST. VIJAYANAGAR 583102

...PETITIONER

(BY SRI. RAJENDRA R. PATIL, ADV. FOR SRI. SRINAND A
PACHHAPURE, ADV)

AND:

THE STATE OF KARNATAKA
THROUGH HAGARIBOMMANAHALLI POLICE STATION,
NOW REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA DHARWAD,
BENCH AT DHARWD 580011

...RESPONDENT

(BY SRI. PRASHANT V. MOGALI, HCGP)



THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.,
SEEKING TO GRANT BAIL TO THE PETITIONER/ACCUSED NO.2 IN
CRIME NO.107/2022 ON THE FILE OF COURT OF III ADDITIONAL
DISTRICT AND SESSIONS JUDGE, BALLARI SITTING AT
HOSAPETE REGISTERED FOR THE OFFENCES PUNISHABLE U/S
363, 364A, 506 AND 109 R/W SECTION 34 OF IPC AND U/S 66(C)
OF INFORMATION RECHNOLOGY ACT, 2008, BY
HAGARIBOMMANAHALLI POLICE STATION.

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



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ORDER

This petition is filed by accused No.2 under Section 439 of The Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.', for brevity) seeking bail in Crime No.107/2022 of Hagaribommanahalli Police Station registered for the offences punishable under Sections 363, 364A, 506 and 109 read with Section 34 of The Indian Penal Code (hereinafter referred to as the 'IPC', for brevity) and Section 66C of the Information Technology Act, 2008.

2. The case of the prosecution is that, one Krishnamurthy S/o Narayanaswami aged 71 years has filed complaint stating that he is residing with his son Raghavendra and two granddaughters and the victim boy aged 5 years. It is further stated that on 03.07.2022, when he was in the house at 3:00 p.m, his son and daughter-in-law came and told him that their son Aadvik had gone to play in the front yard, but he did not returned. Thereafter,



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they searched for him but could not trace out. It is further stated that at about 4:30p.m, his son received a phone call on his mobile phone bearing No.8722935282, from a mobile phone No.9886414562, wherein a person told him that his son is kidnapped and for his safe release he demanded a ransom of Rs.15,00,000/- and further told that if the said amount is not paid, they will sent his son to some other place in a lorry. When the complainant's son told that he is not having that much of amount, immediately the said amount is reduced to Rs.3,00,000/- and asked him to come along with his wife to the place where he suggests and cautioned him not to inform the police, else they will not see their son. The said complaint came to be registered against the unknown person in Crime No.107/2022 of H.B.Halli Police Station for the aforesaid offences. The police conducted investigation. During the investigation, they collected call records and the SIM which is used to call the son of the complainant was standing in the



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name of one Kumarappa and on inquiry by the police, he narrated that on 01.07.2022, he submitted his Adhar Card and brought the SIM card from accused No.6-Ravi and on the same day, two SIMs were activated in the name of Kumarappa. The police have interrogated accused No.6 and he revealed that on 01.07.2022, he activated two SIMs in the name of Kumarappa and one SIM has been given to Kumarappa and he kept another SIM with him. After that, accused No.2 approached accused No.6 and narrated that accused No.1 is planning to make kidnap of a minor child and he required a SIM. Accused No.6 gave that SIM, which is activated in the name of Kumarappa to accused No.1. Accused No.1 took the boy from front yard of the house of complainant and handed over the boy to accused Nos.3 and 4. Accused No.2 made conversation with son of the complainant through the mobile phone bearing No.9886414562. The police during investigation traced out the victim boy. The petitioner-accused No.2 came to be arrested on



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04.07.2022 and he is in judicial custody. The petitioner filed Crl.Misc.Petition.No.5449/2022, seeking bail and the same came to be rejected by the learned III Additional District and Sessions Judge, Ballari (sitting at Hosapete) by order dated 28.07.2022. The petitioner/accused No.2 had filed Criminal Petition No.102268/2022 before this Court at crime stage and it came to be rejected by order dated 25.08.2022. Thereafter, charge sheet came to be filed and this petitioner filed Criminal Miscellaneous No.5651/2022 seeking bail and the same came to be rejected by order dated 27.10.2022. Therefore, the petitioner is before this Court seeking bail.

3. Heard the arguments of the learned counsel appearing for the petitioner and the learned High Court Government Pleader for the respondent-State.

4. The learned counsel for the petitioner would contend that the main allegation of kidnap is



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against accused No.1 and this petitioner/accused No.2 is alleged to have facilitated him by securing SIM from accused No.6 and making phone call to the father of the victim boy and demanding ransom for having kidnapped the victim boy. It is his further submission that the arrest of accused No.6 is shown as 05.07.2022 and it is stated that his voluntary statement is recorded on 04.07.2022. It is his further submission that there are no injuries on the body of the victim boy and there is no threat given to the victim boy. It is his further submission that accused No.5 has been granted bail by the Sessions Court and this petitioner is also similarly placed to that of accused No.5 and therefore, he is entitled for grant of bail on the ground of parity. It is his further submission that as charge sheet is filed, the petitioner is not required for custodial interrogation. With this, he prayed to allow the petition.

5. *Per contra*, learned High Court Government Pleader would contend that the motorcycle and



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mobile phone of this petitioner/accused No.2 came to be recovered at his instance under mahazar. The statement of CW-5-father of the victim boy and the statement of CW-6-mother of the victim boy have been recorded wherein they have narrated the entire story. It is his further submission that CWs.8 and 9 are working in Petrol Bunk wherein they saw two persons making conversation for kidnap of a boy and subsequently on being shown, they identified accused Nos.3 and 4. It is his further submission that CW.10 overheard the conversation between two persons regarding kidnap of a boy and subsequently on being shown, he has identified accused Nos.2 and 5 as the said persons who were making conversation for kidnap. The voluntary statement of this petitioner/accused No.2 has been recorded wherein he has stated about the alleged entire role of kidnap of the victim boy for demand for ransom. Charge sheet material show prima facie case against the petitioner for the offences alleged against him. This petitioner is involved in Crime No.15/2021 of Hubli



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Police Station which is registered under Sections 8 and 20(b) of NDPS Act. He is having criminal antecedents. If the petitioner is granted bail, there are chances of he threatening the complainant and other prosecution witnesses and committing similar and other offences. With this, he prayed to reject the petition.

6. Having regard to the submission made by the learned counsel for the petitioner and the learned High Court Government Pleader, this Court has gone through the charge sheet records and the order passed by the Sessions Court.

7. As per the charge sheet records, accused No.1 has kidnapped the victim boy for ransom and this petitioner/accused No.2 has made a phone call to the mobile phone of the son of the complainant i.e. CW.5 and demanded ransom of Rs.15,00,000/- which was reduce to Rs.3,00,000/-. The said mobile phone of this petitioner and the bike used for kidnapping the victim boy has been recovered at his



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instance under mahazar. SIM Card used by this petitioner/accused No.2 to make a phone call to CW-5-father of the victim boy has been activated in the name of CW-7-Kumarappa by accused No.6, who has given the said SIM to the petitioner/accused No.2 for using it for kidnapping the victim boy. The statement of the victim boy has been recorded and test identification has been conducted wherein this victim boy who is cited as CW-4 has identified 5 accused persons including this petitioner. CW.10 is a person who heard conversation of two persons regarding kidnap of a boy and subsequently on being shown, he has identified this petitioner/accused No.2 and accused No.5 as those persons. The voluntary statement of this petitioner/accused No.2 clearly shows his involvement in the commission of the offence. Charge sheet material show prima facie case against the petitioner for the offences alleged against him. offence alleged against this petitioner under Section 364A of IPC is a heinous offence punishable with imprisonment for a period of ten



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years. This petitioner is having criminal antecedents and he is involved in Crime No.15/2021 of Hubli Police station registered for the offences punishable under Sections 8 and 20(b) of NDPS Act. If the petitioner is granted bail, there is threat to the complainant and other prosecution witnesses and there are chances of he repeating the same offences and other offences. Therefore, the petitioner/accused No.2 is not entitled for grant of bail.

Accordingly, the criminal petition is dismissed.

**Sd/-
JUDGE**

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