



**CRL.P No. 102854 of 2022**

**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH  
DATED THIS THE 31<sup>ST</sup> DAY OF OCTOBER 2022  
BEFORE  
THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR  
CRIMINAL PETITION NO. 102854 OF 2022**

**BETWEEN:**

IBRAHIM SHINDEWALE  
S/O KHURSHID AHMED SHINDEWALE  
AGED. 33 YEARS, OCC. BUSINESS  
R/O ANAND NAGAR  
OLD HUBBALLI, TQ. HUBBALLI  
DIST. DHARWAD 580001

...PETITIONER

(BY SRI. AVINASH M ANGADI, ADVOCATE)

**AND:**

1. STATE OF KARNATAKA  
THROUGH OLD HUBBALLI POLICE STATION  
REP. BY ITS STATE PUBLIC PROSECUTOR  
HIGH COURT OF KARNATAKA  
DHARWAD-580001
2. SMT. SAVITA SHAIKH  
W/O NAZEER SHAIKH  
OCC. HOUSE WIFE  
R/O NO. 264/14  
GREEN VALLEY, CHOGM ROAD,  
NEAR BAKERS STREET  
PORVORIM, BARDEZ, BARDEZ GOA-403521

...RESPONDENTS

(BY SRI. PRASHANTH V. MOGALI, HCGP FOR RESPONDENT NO.1.  
RESPONDENT NO.2 SERVED.)

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.  
SEEKING TO ALLOW THIS PETITION AND ENLARGE THE  
PETITIONER/ACCUSED ON REGULAR BAIL IN CRIME NO.89/2022  
REGISTERED BY THE RESPONDENT POLICE ON 04.06.2022 FOR  
THE ALLEGED OFFENCES PUNISHABLE U/S 4, 8, 12 OF THE  
PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT - 2012





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(POCSO) AND SECTION 376, 328, 506(2), 354, 354A, 354B, 354D OF IPC, PENDING ON THE FILE OF II ADDITIONAL DISTRICT AND SESSIONS AND SPECIAL JUDGE, AT DHARWAD REGISTERED BY THE RESPONDENT OLD HUBBALLI POLICE.

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

**ORDER**

This petition is filed by the sole accused 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.89/2022 of Old Hubballi Police Station, registered for the offences punishable under Sections 376, 354A & D and 506(ii) of The Indian Penal Code (hereinafter referred to as the 'IPC', for brevity), Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012(hereinafter referred to as 'POCSO Act', for brevity) and Section 67B of the Information Technology Act pending in Spl.SC. No.63/2022 on the file of the learned II Additional District and Sessions and Special Judge, Dharwad.



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2. The case of the prosecution is that, one Mrs Savita Shaikh has filed the complaint before the Panaji Police Station stating that the victim girl, aged 17 years (date of birth 28.05.2004), is her niece and she is residing with her in Goa since October 2021. It is further stated that, during January 2022, she received a phone call from petitioner's wife informing that the victim is friendly with her husband and she is messaging and calling her husband on her mobile No.9689768804 as well as to her residential phone No.8010827416. She enquired with the victim girl who disclosed to her that during January 2021, at the request of the petitioner she was sent to his clothing shop for work. After 15 days of starting of work at the petitioner's shop, the petitioner started to compliment her saying that she looks good and that he likes her and then he proposed her saying he loves her and he started to force her to talk to him. The victim initially started ignoring him but the



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petitioner started continuously asking her to be with him. It is further stated that, during February 2021, the petitioner took her to his house situated at Anand Nagar, Hubli and he performed black magic stating that he would pray for her family and gave her a glass of water to drink and also gave her a glass of juice to drink. After drinking the juice, the victim started feeling dizzy and she was not able to talk, then the petitioner removed her leggings pant and had sex with her. Thereafter the petitioner brought her back to his shop and threatened not to disclose the same to anyone. It is further stated that, during March 2021, the petitioner took her to a lodge namely Swarna Paradise situated at Station Road, Railway Colony, Hubli and after sometime two of his friends namely Aslam and Sadik came there and all the 3 drank alcohol and the petitioner offered the victim girl to drink juice and after drinking juice she became unconscious and when she gained conscious she was undressed and at that time, the



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petitioner had taken the photos of her on his One Plus Mobile. It is further stated that the petitioner used to blackmail her on various occasions to have sex with him by showing the picture which he took in his mobile and also used to blackmail her saying that if she did not have sex with him then he would circulate the pictures in the social media. It is also further stated that the petitioner was telling to all her relatives in Hubli that the victim is in relationship with him and is spoiling the victim's name in the society and he is also posting the victim's photographs every day on instagram from his Id. He also threatened her that, if she did not keep sexual relationship with him, he will post the video and nude photos in the social media. The said complaint came to be registered before the Panaji police on 19.05.2022 in FIR No.0-19052248/2022. The Goa police recorded the statement of the victim on the same day i.e. on 19.05.2022 and thereafter transferred the FIR, complaint and the statement of



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the victim to the Old Hubballi Police Station and a case came to be registered in Crime No.89/2022 against this petitioner for the offences punishable under Sections 376, 328, 506(ii) and 354, 354A, B &D of IPC and Sections 4, 8 and 12 of POCSO Act. The Police after investigation filed charge sheet against this petitioner for the offences punishable under Sections 376, 354A & D and 506(ii) of IPC, Sections 4, 8 and 12 of POCSO Act and Section 67 of the Information Technology Act. The petitioner came to be arrested on 23.06.2022 and he is in judicial custody. The petitioner filed bail application in Spl.SC No.63/2022 and the same came to be rejected by the learned II Additional District and Session and Special Judge, Dharwad, by order dated 22.09.2022. 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 respondent No.1-



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State. Notice issued to respondent No.2-complainant is served and Despite the same, she remained absent and unrepresented. In that regard, the learned Government Pleader has filed a memo along with the representation of the victim wherein she has prayed not to grant bail to the petitioner.

4. The learned counsel for the petitioner would contend that the alleged incident occurred during January 2021 to April 2021 and the complaint came to be filed on 19.05.2022 and there is a delay of one year in filing the complaint. It is his further submission that the date of birth of the victim as noted by the Doctor is 19.05.2003 and as per her birth certificate, her date of birth is 28.05.2004. It is his further submission that the doctor who examined the victim girl has opined that his findings are neither refuting nor confirming the forceful sexual intercourse or assault. It is his further submission that, as charge sheet is filed, the



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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 date of birth of the victim girl is 28.05.2004 and she was aged 17 years as on the date of the commission of the alleged offence. It is his further submission that, the victim girl has shown the house of the petitioner and the lodge stating that he has committed offence there and the Investigating officer has drawn mahazar of the said two places. It is his further submission that the investigating Officer has recorded the statement of the victim girl and her statement is also recorded under Section 164 of Cr.P.C. wherein she has specifically stated the acts of this petitioner of having sexual intercourse with her and threatening her. The doctor who examined the victim girl has noted that her hymen is not intact. The Investigating Officer has collected the lodge register wherein there is an entry on 09.04.2021 in the name of this





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petitioner for Room No.206 and also bears his signature. It is his further submission that the Investigating officer has recorded the statement of Aslam and Sadiq who are stated to be present on 09.04.2021 in the said lodge and who have also stated the presence of this victim in the lodge on that day with the petitioner. It is his further submission that the petitioner is a married man and to fulfill his lust, he had sexual intercourse with this minor victim. Charge sheet material shows prima facie case against this petitioner for the offences alleged against him. 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.

7. The date of birth of the victim girl is 28.05.2004 as per her birth certificate and she was



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aged 17 years as on the date of the alleged incident. The statement of the victim girl has been recorded by the Police of Goa and also by the Police of Hubballi Rural and also under Section 164 of Cr.P.C. wherein she has specifically stated the acts of this petitioner of taking her to his house and to the lodge and having sexual intercourse with her and also taking her nude photographs and threatening her. The Doctor who has examined the victim girl has noted that her hymen is not intact. The lodge register dated 09.04.2021 shows that there is an entry in the name of this petitioner for Room No.206 and it bears the signature and phone number of this petitioner. Two witnesses Aslam and Sadik in their statements have stated the presence of this petitioner and the victim in the said lodge on 09.04.2021. There is a delay in filing the complaint and the explanation offered by the victim for the delay is, threat to the victim by this petitioner of uploading her nude photos and video in the social



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media. The petitioner being a married man had sexual intercourse with the minor victim girl. The petitioner has not made out any grounds for grant of bail. Charge sheet material shows prima facie case against the petitioner for the offences alleged against him. If the petitioner is granted bail, there is threat to the complainant and other prosecution witnesses.

Accordingly, the criminal petition is dismissed.

**Sd/-  
JUDGE**

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