

Mahanthesh Aliyas Malatesh ... vs The State Of Karnataka on 21 February, 2025

Author: Hemant Chandangoudar

Bench: Hemant Chandangoudar

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NC: 2
CRL.A No. 10

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 21ST DAY OF FEBRUARY, 2025
BEFORE
THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR
CRIMINAL APPEAL NO. 100017 OF 2025 (U/S 14 A(2) o

BETWEEN:

MAHANTHESH @ MALATESH
SHUBHASAPPA MARATA,
AGE. 25 YEARS, OCC. COOLIE,
R/O. KVALETTU, TQ. RANEBENNUR,
DIST. HAVERI-581123.

(BY SRI. V.M.BANAKAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH KUMARAPATTANAM P.S.,
R/BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DAHRWAD BENCH, DAHRWAD-580011.

2. MANJULA W/O. CHANDRAPPA ITAGI
AGE 39 YEARS, OCC. COOLIE,

R/O. KVALETTU, TQ. RANEBENNUR,

DIST. HAVERI-581123.

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(BY SRI. T.HANUMAREDDY, AGA FOR R1;
SMT. DEEPA P.DODDATTI, ADV. FOR R2)

THIS CRIMINAL APPEAL IS FILED U/SEC. 14A(2) (P.C.ACT) AMENDMENT ACT 2015 SEEKING TO ENLARGE THE APPELLANT/ACCUSED NO.1 BAIL, IN CONNECTION WITH KUMARPATTANAM PS CR NO. 63/2024, PENDING ON THE FILE OF ADDL. DISTRICT AND SESSIONS JUDGE, FTSC-1 HAVERI, SC AND ST NO. 61/2024. REGISTERED FOR THE OFFENCES P/U/SEC 137(2) OF BNS 2023 U/SEC. 363, 376(2)(n), IPC AND U/SEC. 4, 6, 8, 12 AND 17 POCSO ACT AND 3(1)(w) OF SC/ST ACT 2015, SET ASIDE THE ORDER DATED 03.12.2024 IN SPL. SC AND ST NO. 61/2024 PASSED BY DISTRICT AND SESSIONS JUDGE FTSC-1, HAVERI.

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CRL.A No. 100017 of 2025

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

ORAL JUDGMENT

1. The appellant/Accused No.1, who has been charge- sheeted for offences punishable under Section 137(2) of BNS 2023, Sections 363, 376(2)(n), and 143 read with 149 of the Indian Penal Code (IPC), as well as Sections 4, 6, 8, 12, and 17 of the POCSO Act, and Sections 3(2)(va) and 3(1)(w)(i) of the SC/ST Act, 2015, has approached this Court seeking regular bail.

2. The prosecution alleges that the survivor, after discontinuing her studies, was working in a distillery factory. She became acquainted with the accused, and they frequently communicated via mobile phone. On 12.09.2024, while the complainant and the survivor were walking to work, the survivor turned away and, despite a search, could not be found. It was suspected that the accused had kidnapped her.

3. The complainant filed a complaint, and the survivor was subsequently traced on 14.09.2024 at Konantambagi village, Haveri Taluk. She was subjected to a medical examination, and it is alleged that the accused forcibly sexually assaulted her, resulting in pregnancy. Further investigation confirmed that the survivor had given birth to a male child.

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4. Heard the learned Additional Government Advocate for the respondent - State and the learned counsel for respondent No.2.

5. The learned counsel for respondent No.2 vehemently opposed the bail application, contending that the accused might threaten the survivor and her family members. Therefore, it was argued that the accused is not entitled to bail.

6. A perusal of the charge sheet material indicates that the survivor was approximately 17 years and 5 months old at the time of the incident, while the accused was 25 years old. In her further statement, the survivor stated that she was in contact with the accused and that they frequently spoke on the phone. Whether this is a case of elopement or kidnap is a matter that requires adjudication during the trial.

7. The learned counsel for the appellant on receiving instructions submitted that the accused is willing to solemnize marriage with the survivor and take responsibility for the child.

8. In light of the above, the appellant has established a prima facie case for being granted bail.

Accordingly, I pass the following:

ORDER

i) The appeal stands allowed.

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ii) The impugned order dated 03.12.2024 passed by the Addl.

District and Sessions Judge, and FTSC-I, Haveri in Spl.SC/ST No.61/2024 is set aside, subject to following conditions:

a) The appellant/accused No.1 shall furnish indemnity bond for a sum of Rs.One lakh with one surety for the likesum to the satisfaction of the jurisdictional Court.

b) He shall appear before the Court as and when required.

c) He shall not threaten or allure the prosecution witnesses in whatsoever manner.

d) He shall not get involved in similar offences.

e) He shall not leave the territorial limits of the Trial Court without prior permission of the Trial Court.

Sd/-

(HEMANT CHANDANGOUDAR) JUDGE TIN Ct:vh