

## Dr Rajiv Bajpai vs State Of Karnataka on 15 November, 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15 T H DAY OF NOVEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

CRIMINAL PETITION N 0.5008 OF 2021 C/W  
CRIMINAL PETITION NO.4562 OF 2021

In CrI.P.No.5008/2021

BETWEEN:

Ms.Prerana Mishra,  
Aged about 30 years,  
W/o Animesh Bajpai,  
Currently residing at  
No.B-301, Civitech,  
Sampriti, Sector-77,  
Noida, Uttar Pradesh-201301.

...Petitioner

(By Smt.Manasi Sharma, Advocate, for  
Sri Nitin R, Advocate)

AND:

1. State of Karnataka  
By Hulimavu Police Station,  
Represented by  
the Public Prosecutor,  
Beng aluru-560076.  
Represented by  
State Pub lic Prosecutor,  
Hig h Court of Karnataka,  
Beng aluru.
2. Dr. Rajiv Bajp ai,  
S/o Ashok Bajp ai,  
Aged about 37 years,  
Residing at No.311,

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Sai Samraksha Apartment,  
BTM Layout, Yellenahalli Main Road ,  
Akshaya Nag ar, Beng aluru City,  
Karnataka-560068.

...Respondents

(By Sri Mahesh Shetty, HCGP, for R1;  
Sri Madhav Kashyap, Advocate, for  
Sri P.Prasanna Kumar, Advocate, for R2)

This Criminal Petition is filed under Section  
439(2) Cr.P.C. praying to cancel the bail granted to  
the 2<sup>nd</sup> respondent/accused in CrI.P.No.2883/2020  
vide order dated 10.07.2020 at Annexure-B.

In CrI.P.No.4562/2021

BETWEEN:

Dr. Rajiv Bajpai,  
S/o. Sri Ashok Kumar Bajpai,  
Aged about 37 years,  
Residing at Flat No.A311,  
Sai Samraksha Apartments,  
BTM Residency Layout,  
Yellenahalli Main Road,  
Akshaya Nagar, Bengaluru-560068.

...Petitioner

(By Sri P.R.Narendra, Advocate, absent)

AND:

State of Karnataka  
By Hulimavu Police Station,  
Represented by Public Prosecutor,  
High Court Building,  
Bengaluru-560001.

...Respondent

(By Sri Mahesh Shetty, HCGP)

This Criminal Petition is filed under section  
439(1)(b) Cr.P.C. praying to relax the condition  
No.(b)(i) of the bail order dated 10.07.2020 passed in  
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CrI.P.No.2883/2020 and CrI.P.No.7717/2020 passed on  
23.12.2020 in Cr.No.93/2020 now C.C.No.9093/2020  
of Hulimavu Police Station for the offences p/u/s 306,  
498A of IPC pending on the file of the V Additional  
Chief Metropolitan Magistrate, Bengaluru.

These Criminal Petitions coming on for orders  
this day, the Court made the following:

ORDER

These two petitions are disposed of by a common order. Criminal Petition 4562/2021 is filed by accused in C.C.9093/2020 on the file of V Additional Chief Metropolitan Magistrate, Bengaluru, seeking relaxation of condition No.

(b)(i) in the order dated 10.7.2020 passed in Criminal Petition 2883/2020. Criminal Petition 5008/2021 is filed by the first informant (defacto complainant) for canceling the bail granted to the accused, i.e., Dr.Rajiv Bajpai.

2. I have heard Smt. Manasi Sharma appearing on behalf of Sri Nitin R, the petitioner in Criminal Petition 5008/2021, Sri Madhav Kashyap who appeared on behalf of Sri P.Prasanna Kumar, :: 4 ::

learned counsel for the accused and the Government Pleader.

3. In Criminal Petition 5008/2021 it is alleged that whenever the accused meets his child through video conferencing, he talks in such a way as to brain wash the child to create an impression in him that he was kidnapped by his aunt and grandparents. The accused has called them thieves and they would go to the extent of killing him i.e., the child. The conversation between the accused and the child depicts violation of one of the bail conditions imposed on him in Criminal Petition 2883/2020. The child is the main witness in the criminal case and if he is brain washed by the accused, it will have an adverse impact on the fair trial and therefore the bail granted to the accused is to be cancelled.

4. In Criminal Petition 4562/2021 the main ground taken by the accused is that his parents :: 5 ::

who are residents of Lucknow are suffering from their old age ailments, that there is nobody to look after them and therefore he has to visit Lucknow on regular basis. When the bail was granted he was subjected to condition that he should not leave the jurisdiction of the trial court till conclusion of the trial. Because of this condition he is not in a position to meet his parents and therefore this condition requires to be relaxed so that he can go to Lucknow in order to meet his parents.

5. Smt. Manasi Sharma has referred to the extracts of the transcriptions of video conferencing and submitted that the conversations clearly indicate the way in which the accused speaks with the child. He has made a clear attempt to brain wash the mind of the child. In all the meetings with the child, he has tried to create an impression in the mind of the child that he was kidnapped by :: 6 ::

his grand parents and maternal aunt. He has made unnecessary comments that the baby of the maternal aunt was killed in the womb and that the grandparents stole away his passport, birth certificate, aadhar card and jewellery, etc. It is clear therefore that the accused is making a clear attempt to induce a bad opinion against his aunt and grandparents. This will have a serious repercussion on the criminal case which is pending against the accused. This is clear violation of the bail conditions and therefore the bail granted to the accused is to be cancelled.

6. Sri Madhav Kashyap submitted that the Division Bench of this court while disposing of W.P.(HC) 75/2020 permitted the accused to meet his child through video conferencing. It is not the accused who has influenced the child, but his grandparents and his maternal aunt have tutored the child. He refers to the transcriptions of the :: 7 ::

conversations and submitted that earlier he used to address the accused as 'papa' and now he takes his name. Whenever the child has met the accused through video conferencing, though the maternal grandmother's presence is not visible, the conversation clearly indicates her presence and tutoring of the child. The accused has not violated any conditions. Therefore the petition for cancellation of bail is to be dismissed.

7. In regard to Criminal Petition 4562/2021, Sri Madhav Kashyap submitted that on earlier occasion this court relaxed the condition and permitted the accused to visit Noida to attend the court in connection with G & W case. Now the accused wants to visit his old aged parents who are residing at Lucknow and therefore he prays for permitting the accused to visit Lucknow.

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8. Smt. Manasi Sharma says no objection for permitting the accused to visit Lucknow to meet his parents.

9. I have perused the transcripts of the video conferencing between the child and the accused. While deciding Criminal Petition 7717/2020 filed by the accused, it was made clear that he should not discuss anything relating to the criminal case against him whenever he meets the child through video conferencing as permitted by the Division Bench. Now if the transcripts are seen, though he does not refer to the criminal case, the conversations between him and the child are as such that the accused has made an attempt to instill a kind of feeling in the mind of the child that he was kidnapped by his grandparents and all his important documents such as birth certificate, aadhar card, passport, etc., were all stolen by them. In certain other conversations the accused :: 9 ::

has stated that they (child's grandparents) took all his money and car and they were meant for sucking money from him. As argued by Sri Madhav Kashyap some other conversations also indicate that the child was reluctant to speak to his father. When the accused said to the child that he was his son, the latter told that he was not his son. There is another conversation which shows that the grandmother might be standing at some distance invisibly when the child was conversing with the father through video conferencing. Therefore what appears is that accused being the father as also the grandparents might be using the child as their dice. The allegations made against the accused do not indicate that really the accused has violated the bail conditions. Therefore there is no ground for cancelling the bail. However, to see that the mind of the child is not spoiled by the accused, a direction may be issued to him that whenever he :: 10 ::

meets the child on video conferencing he should not speak anything against the grand parents or the maternal aunt or anybody of their family. He can only have such kind of a conversation as to show his love and affection towards the child. At the same time the grandparents and the maternal aunt of the child shall also remain away during video conferencing between the child and the accused.

10. As Smt. Manasi Sharma has said no objection for the accused to meet his parents, he is permitted to visit Lucknow to meet his parents without causing hindrance to the progress in the criminal case pending against him.

With the above discussions, these two petitions are disposed of.

Sd/-

JUDGE ckl/-