

Mahabaleshwar Babu Siddi vs The State Of Karnataka on 6 August, 2024

Author: S.Vishwajith Shetty

Bench: S.Vishwajith Shetty

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NC: 2024:KHC-D:11125
CRL.P No. 101968 of 2024

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 6TH DAY OF AUGUST, 2024
BEFORE
THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO. 101968 OF 2024

BETWEEN:
MAHABALESHWAR BABU SIDDI
AGE. 27 YEARS OCC. COOLI
R/O. ANGADIBAIL ACHAVE TQ
ANKOLA DIST, KARWAR - 581 314.

...PETITIONER

(BY SRI S.V. YAJI, ADV.)
AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY THROUGH
YELLAPUR POLICE STATION
DIST. KARWAR, REPRESENTED BY
SPECIAL PUBLIC PROSECUTOR
HIGH COURT BUILDING
DHARWAD - 580 011.
2. RAGHAVENDRA SIDDI
AGE. 36 YEARS
OCC. COOLIE
R/O. UMMACHAGI

TQ. YELLAPUR
DIST. UTTARA KANNADA - 581 347
FATHER OF THE VICTIM GIRL.
3. KAMALA
W/O RAGHAVENDRA SIDDI

Digitally signed
by NANDINI MS
Location: High
Court of
Karnataka

AGE. 32 YEARS OCC. HOUSEHOLD
R/O. UMMACHAGI
BARATHANALLI, TQ: YELLAPUR
DIST. UTTARA KANANDA - 581 347.

...RESPONDENTS

(BY SRI JAIRAM SIDDI, HCGP FOR R-1;
R-2 & R-3 ARE SERVED)

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THIS CRIMINAL PETITION IS FILED U/SEC. 439 OF CR.P.C.
SEEKING TO ALLOW THIS PETITION GRANTING BAIL TO THE
PETITIONER WHO IS THE ACCUSED NO.2 IN SPECIAL CASE NO.
104/2023 BEFORE THE ADDITIONAL DISTRICT AND SESSIONS
JUDGE, FTSC-1 U.K. KARWAR (SPECIAL COURT FOR TRIAL OF CASES
FILED UNDER POCSO ACT) AT CRIME NO. 140/2023 OF YALLAPURA
P.S. FOR THE OFFENCES P/U/SEC. 4, 6, 10, 11 12 OF THE
PROTECTION OF CHILDREN FROM SEXUAL OFFENCE POCSO ACT
AND SEC. 376(2)(f), 376(2) (n) AND 506 OF IPC ON SUCH TERMS
AND CONDITIONS.

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

CORAM: THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY)

1. Accused no.2 in Special Case No.104/2023 pending before the Court of Addl. District & Sessions Judge, FTSC-I, Uttara Kannada, Karwar, arising out of Crime No.140/2023 registered by Yallapura Police Station, Uttara Kannada District, Karwar, for the offences punishable under Sections 376(2)(f), 376(2)(n) & 506 IPC and Sections 4, 6 & 10 of the Protection of Children from Sexual Offences Act, 2012, is before this Court under Section 439 of Cr.PC.

2. Heard the learned Counsel for the parties.

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3. FIR in Crime No.140/2023 was registered by Yallapura Police Station, Uttara Kannada District, for the aforesaid offences against Shekhar Siddhi on the basis of the complaint dated 23.08.2023 registered by the victim girl.

4. During the course of investigation in the said case, petitioner was arrested on 25.08.2023.

Investigation in the case is completed and charge sheet has been filed. Petitioner is arrayed as accused no.2 in the charge sheet. Bail application filed by the petitioner before the Trial Court in Spl. Case No.104/2023 was rejected on 04.12.2023. Therefore, he is before this Court.

5. Learned Counsel for the petitioner submits that accused no.1, against whom there are allegations of sexual assault on the victim girl, has been granted regular bail by the Trial Court. He submits that accused no.3 also has been granted regular bail by this Court on medical grounds. Petitioner who has no criminal antecedents is in custody from 25.08.2023. Material on record would go to show that petitioner and the victim girl were in love. Accordingly, he prays to allow the petition.

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6. Per contra, learned HCGP who has opposed the petition, however, does not dispute that accused no.1 has been granted regular bail by the Trial Court on merits. He also does not dispute that accused no.3 has been granted regular bail on medical grounds. However, he submits that since there are serious allegations against the petitioner about committing sexual assault on the victim girl, he is likely to tamper with the prosecution witnesses.

7. The material on record would go to show that the victim girl was in the custody of accused no.1 and in the month of September 2022, accused no.1 had sexually assaulted the victim girl against her wishes when she was alone in the house. Accused no.1 is the uncle of the victim girl and after the death of her mother, she was in the custody of accused no.1. It is not in dispute that accused no.1 has been granted regular bail by the Trial Court on the merits of the case.

8. Petitioner allegedly was in love with the victim girl and in the month of June 2023, he allegedly came to the house of accused no.3 where the victim was staying and with a promise to marry her, he had sexual intercourse with her. Accused no.3 NC: 2024:KHC-D:11125 who is another uncle of the victim, also had allegedly sexually assaulted the victim girl. Accused no.3 has been granted bail by this Court in Crl.P.No.103822/2023 on medical grounds.

9. Considering the nature of allegations as against the petitioner herein and also having regard to the fact that accused no.1 as against whom similar allegations are found in the charge sheet has been already granted regular bail, I am of the opinion that the prayer made by the petitioner for grant of regular bail requires to be answered affirmatively subject to conditions. Accordingly, the following order:

10. The petition is allowed. The petitioner is directed to be enlarged on bail in Special Case No.104/2023 pending before the Court of Addl. District & Sessions Judge, FTSC-I, Uttara Kannada, Karwar arising out of Crime No.140/2023 registered by Yallapura Police Station, Uttara Kannada District, Karwar, for the offences punishable under Sections 376(2)(f), 376(2)(n) & 506 IPC and Sections 4, 6 & 10 of the Protection of Children from Sexual Offences Act, 2012, subject to the following conditions:

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- a) Petitioner shall execute personal bond for a sum of Rs.1,00,000/- with two sureties for the likesum, to the satisfaction of the jurisdictional Court;
- b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;
- c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;
- d) The petitioner shall not involve in similar offences in future;
- e) The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

Sd/-

(S.VISHWAJITH SHETTY) JUDGE KK