

Narasing vs The State Of Karnataka And Anr on 23 July, 2024

Author: S.Vishwajith Shetty

Bench: S.Vishwajith Shetty

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NC: 2024:KHC-K:5239

CRL.P No. 200871 of 2024

C/W CRL.P No. 200783 of 2024

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF JULY, 2024

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO.200871 OF 2024 (439)

C/W

CRIMINAL PETITION NO.200783 OF 2024 (439)

IN CRIMINAL PETITION NO.200871 OF 2024

BETWEEN:

SACHIN S/O SUBHASH KANDAGULE,
AGE: 19 YEARS,
OCC: AUTO DRIVER,
R/O. KANDAGUL VILLAGE,
TQ: AURAD-B,
DIST: BIDAR.

...PETITIONER

Digitally
signed by
SHILPA R
TENIHALLI
Location:
HIGH
COURT OF
KARNATAKA

(BY SRI MANURE ASHOK KUMAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA

THROUGH BIDAR MAHILA POLICE STATION,
REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KALABURAGI-585 101.

2. BHAGAVANTH BAPURE
S/O VAIJINATH BAPURE,
FATHER OF VICTIM

AGED ABOUT 45 YEARS,
OCC: COOLIE,

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CRL.P No. 200871 of 2024

C/W CRL.P No. 200783 of 2024

R/O. VILLAGE GADGI,
TQ: AND DIST: BIDAR-585 402.

...RESPONDENTS

(BY SRI VEERANAGOUDA MALIPATIL, HCGP FOR R1;
R2 SERVED)

THIS CRL.P. IS FILED U/S. 439 OF CR.P.C PRAYING TO
RELEASE ON BAIL IN SPECIAL CASE (POCSO) NO. 415/2023
AND IN CRIME NO. 13/2023, OFFENCES PUNISHABLE UNDER
SECTION, 363, 366, 354-A (I) (ii), 376 R/W SEC. 34 OF IPC
AND SEC. 4 AND 6 OF POCSO ACT, PENDING BEFORE
HONOURABLE ADDITION SESSIONS COURT AT BIDAR
REGISTERED BY THE BIDAR MAHILA POLICE STATION IN THE
INTEREST OF JUSTICE AND EQUITY.

IN CRIMINAL PETITION NO.200783 OF 2024
BETWEEN:

1. SRI NARASING S/O SRIPATHI,
AGE: 19 YEARS, OCC: AUTO DRIVER
R/O. CHIMKOD VILLAGE,
BIDAR-585 403.

...PETITIONER

(BY SRI ARUNKUMAR AMARGUNDAPPA, ADVOCATE)
AND:

1. THE STATE OF KARNATAKA
THROUGH BIDAR MAHILA POLICE STATION,
REP. BY IT'S ADDL. STATE
PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA
KALABURAGI BENCH-585 102.
2. VICTIM GIRL
D/O BHAGAVANTH BAPURE,
AGED ABOUT 17 YEARS,
OCC: STUDENT,
SINCE MINOR REPRESENTED BY
HER NATURAL GUARDIAN
I.E., FATHER NAMELY BHAGAVANTH

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CRL.P No. 200871 of 2024

C/W CRL.P No. 200783 of 2024

S/O VAIJANATH BAPURE,

AGED ABOUT 45 YEARS, OCCA; COOLIE
R/O. GADGI VILLAGE BIDAR,
TQ: & DIST: BIDAR-585 402.

...RESPONDENTS

(BY SRI VEERANAGOUDA MALIPATIL, HCGP FOR R1;
SMT. SHANTABAI PATIL, ADVOCATE FOR R2)

THIS CRL.P. IS FILED U/S. 439 OF CR.P.C PRAYING TO
ALLOW THIS BAIL PETITION AND THEREBY RELEASE THE
PETITIONER / ACCUSED NO.1 ON BAIL IN SPECIAL CASE
(POCSO) NO.415/2023 (CRIME NO.13/2023), PENDING ON THE
FILE OF HON'BLE ADDL. DIST. & SESSIONS JUDGE, BIDAR FOR
THE OFFENCES PUNISHABLE U/S. 363, 366, 354-A (I) (ii), 376
R/W 34 OF IPC AND SEC. 4 AND 12 OF POCSO ACT, 2012
REGISTERED BY THE RESPONDENT No.1 BIDAR WOMEN
POLICE STATION, IN THE INTEREST OF JUSTICE AND
EQUITY.

THESE PETITIONS ARE COMING ON FOR ORDERS, THIS
DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY) Accused Nos.1 and 3 are before this Court in these two petitions filed under Section 439 of Cr.P.C. with a prayer to enlarge them on bail in Special Case (POCSO) No.415/2023 pending before the Court of Additional District and Sessions Judge, Bidar arising out of Crime No.13/2023 for the offences punishable under Sections NC: 2024:KHC-K:5239 363, 366, 354-A(I)(ii), 376 read with Section 34 of IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act').

2. Heard the learned counsel for the petitioners, learned High Court Government Pleader for respondent No.1 and learned counsel for respondent No.2 in Criminal Petition No.200783/2024. Respondent No.2, who is served in Criminal Petition No.200871/2024, has remained unrepresented before this Court.

3. The FIR in Crime No.13/2023 was registered by Bidar Women Police Station, Bidar against Narasing and four others for the aforesaid offences on the basis of the first information dated 07.03.2023 received from the victim girl at about 20.15 hours. The petitioners herein are arrayed as accused Nos.1 and 3 in the FIR. During the course of investigation, the petitioners herein were arrested on 08.03.2023 and remanded to judicial custody. The investigation in the case is completed and charge sheet has been filed. Even in the charge sheet, the NC: 2024:KHC-K:5239 petitioners are arrayed as accused Nos.1 and 3. The bail application filed by the petitioners before the jurisdictional Sessions Court was rejected. Therefore, they are before this Court.

4. Learned counsel for the petitioners submits that the allegation against accused Nos.1 to 3 is similar in nature. The victim has alleged that accused Nos.1 to 3 have separately committed sexual

assault on her on 06.03.2023 and 07.03.2023. Accused No.2 has been granted regular bail by this Court in Criminal Petition No.200556/2024. Accordingly, he prays to allow the petitions.

5. Per contra, learned High Court Government Pleader has opposed the petitions. Learned counsel for respondent No.2, who has filed vakalath on behalf of respondent No.2 in Criminal Petition No.200783/2024 has strongly opposed the petitions. She submits that the victim is a minor, and therefore, the alleged offences get attracted against the accused persons who have NC: 2024:KHC-K:5239 committed the heinous offence. She also submits that in the event if the petitioners are enlarged on bail, there is every likelihood of the petitioners tampering with the prosecution witnesses.

6. The petitioners herein are aged about 19 years. They are in custody from 08.03.2023. Investigation in the case is complete and charge sheet has been filed. Perusal of the first information and the charge sheet would go to show that the allegation of committing sexual assault on the victim is made against accused nos.1 to 3. It is alleged that on 06.03.2023 & 07.03.2023, at different places and at different time, accused nos.1 to 3 had separately committed sexual assault on the victim. This Court has already granted regular bail in Crl.P.No.200556/2024 to accused no.2 as against whom similar allegations is found in the charge sheet. In paragraph 7 of the order passed by this Court in Crl.P.No.200556/2024, it is observed as under:

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"7. From perusal of the averments made in the first information, the conduct of the victim girl appears to be quite unnatural. In the first information, she has made allegations of three separate sexual assaults within a span of 24 hours on her by different accused persons. The medical records do not indicate any external injuries suffered by the victim girl on her body. The victim, her mother and other material witnesses have been already examined before the Trial Court. In the statement of the victim under Section 164 of Cr.P.C., certain inconsistencies are found. The petitioner, who had no criminal antecedents is in custody from 18.03.2023. The investigation in the case is completed and the charge sheet has been filed. The threat of petitioner tampering with the prosecution witnesses is not there since the material witnesses have been already examined in the present case. The allegations made against the petitioner are required to be proved in a full-fledged trial before the Trial Court."

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7. The aforesaid reasons assigned by this Court while granting regular bail to accused no.2 would be applicable to the case of the petitioners herein as against whom similar allegations are found in the charge sheet. Under the circumstances, I am of the opinion that the prayer made by the petitioners seeking regular bail is required to be answered affirmatively. Accordingly, the following order:

8. Petitions are allowed. The petitioners are directed to be enlarged on bail in Special Case (POCSO) No.415/2023, arising out of Crime No.13/2023 of Bidar Women Police Station, Bidar district, registered for the offences punishable under Sections 363, 366, 354A(1)(ii), 376 read with Section 34

of IPC and under Sections 4 and 12 of the POCSO Act, pending on the file of learned Additional District and Sessions Judge, Bidar, subject to the following conditions:

- a) The petitioners shall execute personal bond for a sum of Rs.1,00,000/- each with two NC: 2024:KHC-K:5239 sureties for the likesum, to the satisfaction of the jurisdictional Court;
- b) The petitioners shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts their appearance for valid reasons;
- c) The petitioners shall not directly or indirectly threaten or tamper with the prosecution witnesses;
- d) The petitioners shall not involve in similar offences in future;
- e) The petitioners shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against them is disposed off.

Sd/-

(S.VISHWAJITH SHETTY) JUDGE SRT/KK