

Siddappa S/O. Laxman Naik vs The State Of Karnataka on 16 May, 2023

Author: M.Nagaprasanna

Bench: M.Nagaprasanna

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CRL.P No. 100971 of 2023

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 16TH DAY OF MAY, 2023
BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA
CRIMINAL PETITION NO. 100971 OF 2023 (439)

BETWEEN:

SIDDAPPA
S/O. LAXMAN NAIK,
KONKERI VILLAGE,
TAL: HUKKERI, DIST: BELAGAVI

...PETITIONER

(BY SRI. PRASHANT MATHAPATHI, ADVOCATE)
AND:

1. THE STATE OF KARNATAKA
THROUGH SNAKESWAR P.S.,
NOW REPRESENTED BY SPP
HIGH COURT OF KARNATAKA,
DHARWAD.
2. CHILD WELFARE COMMITTEE,
BELAGAVI DISTRICT,
REP. BY ITS CHAIRMAN,

Digitally
signed by K M
SOMASHEKAR

SISTER LOURD MARY,

KM

Location: high
court
karnataka

BELAGAVI-591 108.

SOMASHEKAR Dharwad
bench
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...RESPONDENTS

(BY SMT. GIRIJA S.HIREMATH, HCGP)

THIS CRIMINAL PETITION IS FILED U/SEC. 439 OF CR.P.C. SEEKING TO GRANT BAIL TO THE, PETITIONER/ ACCUSED (SANKESHWAR P.S. CR. NO. 279 OF 2022) IN SPECIAL CASE KNO 35 OF 2023 PENDING ON THE FILE OF HON BLE ADDL DISTRICT AND SESSIONS JUDGE , FAST TRACK SPECIAL COURT-I BELAGAVI FOR THE PUNISHABLE U/SEC 376(1), 376(2) (N) R/W SEC 34 OF IPC AND SEC 4,6,AND 17 POCSO ACT AND SEC 9,10 ,11 OF PREVENTION OF CHILD MARRIAGE ACT 2006 AND ETC.,

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CRL.P No. 100971 of 2023

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

ORDER

The petitioner is before this court seeking his enlargement on bail, in the petition under Section 439 of Cr.P.C. for it having been turned down by the learned Sessions Judge, in Crl.Misc.No.255/2023 in terms of the order dated 21.03.2023.

2. Heard Sri.Prashant Mathapathi learned counsel for the petitioner.

3. Brief facts are as follows:

A complaint comes to be registered by the Planning Officer, Hukkeri before the Sankeshwar Police Station intimating that the victim 17 years old a minor had become pregnant when she had been to the hospital for her check up. It is then report is sought from the girls house that she was 17 years and 6 months and was given in marriage to one Siddappa Naik and the girl by then 9 months pregnant. She was admitted for treatment at the District Hospital, it is then the said incident comes to the light.

4. The petitioner, husband of the said victim was taken into custody immediately and has been in custody since the date of registration of the crime in crime No.279/2022 for the offences punishable under Sections 376(1), 376(2)(N) r/w Section 34 of IPC and Sections 4, 6 and 17 of POCSO Act and Sections 9, 10, and 11 of Prevention of Child Marriage Act, 2006.

5. The petitioner knocks at the door of the concerned court in Crl.Misc.No.255/2023 seeking his release by grant of bail. This is opposed by the State contending that petitioner has married a minor and has indulged in sexual acts due to which the victim has become pregnant. Therefore, the offense

are prima facie met and bail should not be granted. The court accepts the submission of the State and on perusal of the statement of the victim girl that at the time of marriage she was a minor and due to the force of family members had married the petitioner-accused No.1. The victim was below 18 years and therefore, all of them were accused under the afore- quoted offences. Denial of enlargement on bail, leads the petitioner to this court in this subject petition.

6. Learned counsel appearing for the petitioner would submit that the petitioner and his family members were responsible for the marriage of the petitioner with the victim girl. There was no allegation of any sexual assault or any overt act by the petitioner. As husband and wife they lived in the natural way, the victim becomes pregnant and therefore, the petitioner cannot be held to be indulged in any act under POCSO for sexual assault or aggravated sexual assaults. He seeks enlargement of the petitioner on bail contending that on the ground that he has been in custody since 05.12.2022 which is now close to six months.

7. On the other hand, learned HCGP would refute the submissions contending that the petitioner knowing full well that he has married a minor, continued to live and commit sexual assault and therefore, the petitioner should not be released on bail.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and perused the material on record.

9. The afore-quoted facts are not in dispute. They are all admitted facts. The petitioner gets married the victim girl due to the force of the families of both the victim girl and the petitioner. The allegations are grave offences, what merits consideration is that the petitioner married the victim and lived as husband and wife and the victim becomes pregnant in the natural way as they lived as husband and wife. There is no allegation that petitioner had indulged in any overt act upon the victim. Above all, the police after completion of investigation, filed a charge sheet against the petitioner and several other accused, for the afore-quoted offences. In the light of the aforesaid facts, and the petitioner being in custody for the last six months, I deem it appropriate to enlarge the petitioner on bail, imposing certain stringent conditions.

10. For the aforesaid reasons following:

ORDER The criminal petition is allowed. The petitioner/accused No.1 shall be released on bail in connection with crime No.279/2022 of Sankeshwar P.S. and pending before the Additional District and Sessions Judge FTSC-I, Belagavi in S.C.No.255/2023, subject to the following conditions:

i) The petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with one surety for the like sum to the satisfaction of the jurisdictional court.

ii) The petitioner shall not indulge in tampering the prosecution witnesses.

iii) The petitioner shall appear before the jurisdictional court on all future hearing dates unless exempted by the court for any genuine cause.

iv) The petitioner shall not leave the jurisdiction of the trial court without prior permission of the court till the case registered against him is disposed of.

The observations made above are only for the purpose of consideration of the application for bail and the same shall not in any manner influence the trial. The trial court shall consider the case on its merits and without being influenced by this order.

Sd JUDGE MBS