

# **Sri Narayana Swamy @ Nallur Narayana ... vs State Of Karnataka on 7 November, 2016**

**Author: R.B Budihal**

**Bench: R.B Budihal**

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU  
DATED THIS THE 07TH DAY OF NOVEMBER, 2016  
BEFORE  
THE HON'BLE MR.JUSTICE BUDIHAL R.B.

CRIMINAL PETITION NO.6057/2016

BETWEEN:

1. SRI NARAYANA SWAMY @  
NALLUR NARAYANA SWAMY  
S/O LATE MUNIYAPPA,  
AGED ABOUT 46 YEARS,  
OCC: AGRICULTURIST,  
R/O NALLUR VILLAGE,  
TALUK: BANGARPET,  
DIST: KOLAR - 563 114.
2. SRI VENKATARAMA @  
VENKATARAMAIAH  
S/O HANUMANTHA  
AGED: 36 YEARS,  
OCC: AGRICULTURIST,  
R/O KANGANDLAHALLI,  
KYASAMBALLI  
BANGARPET TALUK,  
DIST: KOLAR - 563 114.
3. SRI SANDA MUNISWAMY  
S/O NARAYANA SWAMY,  
AGE: 50 YEARS,  
R/O GANNERAHALLI,  
BETHAMANGALA HOBLI,  
BANGARPET TALUK,  
KOLAR DISTRICT - 563 114.

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4. MANU,  
W/O. NARAYANASWAMY,  
36 YEARS,  
OCC: HOUSEWIFE,  
NALUR, BANGARPET TALUK,  
KOLAR - 563 114. ... PETITIONERS

(BY SRI RAMAKRISHNA HEGDE, ADV. FOR  
SRI VEERANNA. G .TIGADI)

AND:

STATE OF KARNATAKA,  
REP BY SUB-INSPECTOR OF POLICE,  
BETHAMANGALA POLICE STATION,  
TALUK: BANGARPET,  
DIST: KOLAR.  
REP. BY THE SPP,  
HIGH COURT OF KARNATAKA,  
BENGALURU - 560 001. ... RESPONDENT

(BY SRI.B.VISWESWARAIAH, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION  
438 CR.P.C PRAYING TO ENLARGE THE PETITIONERS ON  
BAIL IN THE EVENT OF THEIR ARREST IN CR.NO.30/2016  
OF BETHAMANGALA P.S., K.G.F. FOR THE OFFENCE  
P/U/S 376(2)F, 366(A) AND 506 R/W 34 OF IPC R/W  
SECTIONS 3,4,5 AND 6 OF CHILD MARRIAGE RESTRAINT  
ACT AND SECTION 5 AND 6 OF POCSO ACT AND SECTION  
3(1)(x)(xi) OF SC/ST (POA) ACT.

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

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#### ORDER

This petition is filed by the petitioners/accused Nos.5, 6, 7 and 8 under Section 438 of Cr.P.C. seeking anticipatory bail, to direct the respondent-police to release the petitioners on bail in the event of their arrest for the offences punishable under Sections 376(2)F, 366(A) and 506 read with Section 34 of IPC, Sections 3, 4, 5 and 6 of Child Marriage Restraint Act and Sections 5 and 6 of Protection of Children from Sexual Offences Act, 2012, and Section 3(1)(x)(xi) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered in respondent police station Crime No.30/2016, which is now pending in S.C.No.77/2016.

2. Brief facts of the prosecution case as per the complaint averments are that the complainant lodged the complaint on 19.12.2015 alleging that on 02.11.2015 at about 12 noon, accused No.1 Narasimha Raju and others had kidnapped the victim girl from Devarahalli village, Bangarpet taluk, in order that she be married to accused No.1. Her marriage was accordingly solemnized with accused No.1 on 05.11.2015 at Bethamangala by accused No.3 Krishnamurthy and the parents of the complainant, accused No.9 Shriramulu and accused No.10 Munilakshmi and others. After the wedding, accused No.3, the brother of accused No.1, took them to Upparapalli village and accused No.1 had forcible sexual intercourse with the complainant. It is further alleged that on the pretext of taking them to Police Station at Bethamangala, accused No.5 Nallur Narayanaswamy had taken them to Devarahalli. On 9.11.2015, accused No.3, it is alleged had kidnapped them from Devarahalli village and kept in an unknown place and on 10.11.2015, when they came near Rajapet road, accused No.4 Meenakshi, sister of accused No.1, had accosted them and abused them in foul language and on 12.11.2015, Nallur Narayanaswamy, Venkataramaiah, Sanda Muniswamy and Manu, who are the petitioners herein, took the victim and handed over to her parents and thereafter, complainant lodged the complaint, on the basis of which, case came to be registered for the above said offences against the petitioners and others.

3. Heard the arguments of the learned counsel appearing for the petitioners/accused Nos.5, 6, 7 and 8 and also the learned High Court Government Pleader appearing for the respondent-State.

4. Learned counsel for the petitioners during the course of his arguments has submitted that accused No.1, who is the main accused in this case, has already been granted regular bail and accused No.2 is also granted bail by the order of this Court. He has also submitted that so far as the present petitioners are concerned, there is no prima-facie material placed by the prosecution. Now the investigation is completed and charge sheet has been filed, hence, submitted that by imposing reasonable conditions, petitioners may be admitted to bail. He has further submitted that petitioners also belong to Scheduled Caste community, therefore, Section 18 is no bar to entertain the petition and for grant of the relief.

5. Per contra, learned High Court Government Pleader, during the course of his arguments has submitted that, the allegations in the complaint and the materials collected during investigation shows that present petitioners have committed the alleged offence and hence, they are not entitled for grant of anticipatory bail.

6. I have perused the grounds urged in the bail petition, FIR, complaint and the charge sheet material placed on record. Perusing the allegations made in the complaint and as submitted by the learned counsel for the petitioners, petitioners herein also belong to Scheduled Caste community, which is not opposed by the learned HCGP, hence, the Bar under Section 18 of the said Act is not made applicable.

7. So far as the merits of the case is concerned, the main allegations are against accused No.1 that he kidnapped the victim girl and married her and thereafter, he committed the intercourse with her. This Court by the order dated 11.05.2016 passed in CrI.P.3082/2015, granted bail to accused No.1. So also by the order dated 24.05.2016 passed in CrI.P.3398/2016 another accused i.e., accused No.4

Smt.Meenakashi, also granted bail by this Court. Now looking to the allegations, so far as the petitioners are concerned, they are vague and there is no specific allegation so far as the petitioners are concerned. Now the investigation is completed and charge sheet has been filed. Therefore, present petitioners have made out a case for grant of anticipatory bail.

8. Hence, petition is allowed. The respondent- Police is directed to enlarge the present petitioners on bail in the event of their arrest for the alleged offences punishable under Sections 376(2)F, 366(A) and 506 read with Section 34 of IPC, Sections 3, 4, 5 and 6 of Child Marriage Restraint Act and Sections 5 and 6 of Protection of Children from Sexual Offences Act, 2012, and Section 3(1)(x)(xi) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered in Crime No.30/2016, subject to the following conditions:

- i. Each petitioner has to execute a personal bond for Rs.50,000/- and has to furnish one surety for the likesum to the satisfaction of the arresting authority.
- ii. Petitioners shall not tamper with any of the prosecution witnesses, directly or indirectly.
- iii. Petitioners have to make themselves available before the Investigating Officer for interrogation, as and when called for and to cooperate with the further investigation.
- iv. The petitioners have to appear before the concerned Court within 30 days from the date of this order and to execute the personal bond and the surety bond.

Sd/-

JUDGE BSR