



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JULY, 2024

BEFORE

THE HON'BLE MRS JUSTICE M G UMA

CRIMINAL PETITION NO. 5449 OF 2024

BETWEEN:

G. DEVARAJE GOWDA
AGED ABOUT 49 YEARS,
S/O. LATE GUNDE GOWDA,
R/A. KAMASAMUDRA VILLAGE,
HOLENARASIPURA TAULK,
HASSAN DISTRICT - 573 211
PRESENTLY R/A
ANNAPURNESHWARI NILAYA,
7TH CROSS ROAD, 9TH WARD,
RAVINDRA NAGAR, HASSAN
TOWN, HASSAN - 573 201.

...PETITIONER

(BY SRI. ARUN SHYAM M., SR. ADVOCATE FOR
SRI. M.R. VIJAYA KUMAR, ADVOCATE)

AND:

1. STATE BY
THE STATION HOUSE OFFICER,
HOLENARASIPURA POLICE
HASSAN DISTRICT - 573 211
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA,
BENGALURU.

2. SMT. JYOTHI
AGED ABOUT 36 YEARS,
W/O. DHARMENDRA,
R/A. POOJE KOPPALU VILLAGE,
HOLENARASIPURA TOWN,
HASSAN DISTRICT - 573 211.

...RESPONDENTS

(BY SRI. B.A. BELLİYAPPA, S.P.P.-I, A/W
SMT. K.P. YASHODHA, HCGP RESPONDENT - 1)





THIS CRL.P IS FILED U/S.439 CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.84/2024 REGISTERED BY HOLENARASIPURA TOWN POLICE STATION, HASSAN FOR THE OFFENCE P/U/S 354(A), 354(C), 354(D), 376(1), 448, 504, 506 R/W 34 OF IPC AND SEC. 66(E) OF I.T. ACT ON THE FILE OF PRINCIPAL CIVIL JUDGE (JR.DN.) AND J.M.F.C., HOLENARASIPURA.

THIS CRL.P, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner-accused No.1 is before this Court seeking grant of bail under Section 439 of Cr.P.C. in Crime No.84/2024 of Holenarasipura Police Station, pending on the file of the learned Principal Civil Judge, (Jr.Dn) and JMFC Court, Holenarsipura, Hassan, registered for the offences punishable under Sections 354(A), 354 (C), 354(D), 376(1), 448, 504, 506 read with Section 34 of the Indian Penal Code (for short 'IPC') and Section 66 (E) of the Information Technology Act, 2008 (for short 'the IT Act'), on the basis of the first information lodged by the informant - Jyothi.

2. Heard Sri. Aruna Shyam. M, learned Senior Advocate for Sri. M.R. Vijaya Kumar, learned counsel for the petitioner and Sri. B.A.Belliyappa, SPP-I along with Smt. K.P. Yashodha, learned High Court Government Pleader for the respondent No.1 - State. Perused the materials on record.



3. In view of the rival contentions urged by the learned counsel for both the parties, the point that would arise for my consideration is:

"Whether the petitioner is entitled for grant of bail under Section 439 of Cr.P.C.?"

My answer to the above point is in 'Affirmative' for the following:

REASONS

4. The petitioner being accused No.1 is seeking grant of bail. He was apprehended on 10.05.2024 and since then, he is in judicial custody.

5. The informant lodged the first information on 01.04.2024 alleging commission of offences punishable under Sections 354(A), 354 (C), 448, 504, 506 read with Section 34 of the Indian Penal Code (for short 'IPC') and Section 66 (E) of the Information Technology Act, 2008. Further statement of the informant was recorded by the Investigating Officer on 10.04.2024, who alleged commission of the offence punishable under Sections 376(1), 354 (D) of IPC as well.



6. Now it is the specific contention of the prosecution that the petitioner has committed rape on the victim on 27.12.2023. There is inordinate delay of about three months in lodging the complaint and the FIR came to be registered on 01.04.2024. It was only in the further statement of the victim which was recorded on 10.04.2024, the offence of committing rape was alleged for the first time.

7. It is pertinent to note that respondent No.2 is the victim aged 36 years and she is a married lady. The petitioner has filed the complaint registered in Crime No. 51/2024 of Hebbal police station against respondent No.2 and her husband Dharmendra and another. The said Dharmendra had filed a counter complaint registered in Crime No. 81/2024 of in Holenarasipura police station against the petitioner alleging commission of offences under the provisions of the SC & ST (Prevention of Atrocities) Amendment Act, 2015 and under Sections 506 and 504 of IPC. Even in that complaint, there is no whisper about the commission of offences, now sought to be alleged against the petitioner.



8. It is stated that in Crime No.81/2024 filed by Dharmendra the husband of respondent No.2 against the petitioner, the police have filed B-report and the same was accepted by the Jurisdictional Magistrate. Therefore, admittedly, there are no other criminal cases registered against the present petitioner and hence, he is not having any criminal antecedents except the present case.

9. Learned Senior Advocate for the petitioner has submitted the synopsis stating that the petitioner being an advocate is actually involved in filing election petitions against several political persons and even succeeded in few petitions, which resulted in disqualification of the respondents in the said petitions. When the petitioner has filed the complaint registered in Crime No. 51/2024 on 28.03.2024, as a counter blast Crime No. 81/2024 on 31.03.2024 was filed by Dharmendra, who is accused No.2 in Crime No. 51/2024. It is thereafter, respondent No.2 who was accused No.1 in the said Crime number, filed the present complaint. All these facts and circumstances have to be taken into consideration while considering the bail application filed by the petitioner to form an opinion as to whether there are strong *prima facie* materials



against the petitioner for having committed the offences. However, such observations are only for the purpose of deciding this petition and shall not influence the Trial Court while deciding the matter on merits.

10. The petitioner was arrested on 10.05.2024. It is not the contention of the prosecution that the petitioner is required for further investigation. Under such circumstances, I am of the opinion that the petitioner is entitled to be enlarged on bail subject to conditions, which will take care of the interest of the prosecution as well as the victim.

11. Accordingly, I answer the above point in the affirmative and proceed to pass the following:

ORDER

The petition is ***allowed***.

The petitioner is ordered to be enlarged on bail in Crime No. 84/2024 of Holenarasipura Police Station, on obtaining the bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the likesum to the satisfaction of the jurisdictional Court, subject to the following conditions:



- a). The petitioner shall not commit similar offences.
- b). The petitioner shall not threaten or tamper with the prosecution witnesses.
- c). The petitioner shall appear before the Court as and when required.

If in case, the petitioner violates any of the conditions as stated above, the prosecution will be at liberty to move the Trial Court seeking cancellation of bail.

On furnishing the sureties by the petitioner, the Trial Court is at liberty to direct the Investigating Officer to verify the correctness of the address and authenticity of the documents furnished by the petitioner and the sureties and a report may be called for in that regard, which is to be submitted by the Investigating Officer within 5 days. The Trial Court on satisfaction, may proceed to accept the sureties for the purpose of releasing the petitioner on bail.

Sd/-
JUDGE