

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JANUARY, 2022

BEFORE

THE HON'BLE MR. JUSTICE H.P. SANDESH

CRIMINAL PETITION NO.9831/2021

BETWEEN:

SRINIVAS MURTHY H.N.
S/O. N.B. NAGENDRAPPA
AGED ABOUT 25 YEARS
R/AT NO.106
BEHIND JAMES SCHOOL
5TH CROSS, MARIYAPPA LAYOUT
AVALHALL, BENGALURU-560 049.

AND ALSO AT
VEDIGERI VILLAGE
KASABA HOBLI
CHANNAGIRI TALUK
DAVANAGERE DISTRICT.

... PETITIONER

(BY SRI KEMPARAJU, ADVOCATE)

AND:

STATE OF KARNATAKA
BY KUMARASWAMY LAYOUT POLICE STATION
BENGALURU DISTRICT
REP. BY ITS STATE PUBLIC PROSECUTOR
HIGH COURT COMPLEX
BENGALURU-560 001.

... RESPONDENT

(BY SRI KRISHNA KUMAR, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.288/2021 OF KUMARASWAMY LAYOUT POLICE STATION, BENGALURU CITY, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 376, 420, 506 OF IPC PENDING ON THE FILE OF THE HON'BLE LIII ADDITIONAL CITY CIVIL AND SESSIONS SPECIAL JUDGE AT BENGALURU.

THIS CRIMINAL PETITION COMING ON FOR ORDERS '**THROUGH VIDEO CONFERENCE**' THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed under Section 439 of Cr.P.C. seeking regular bail of the petitioner/accused No.1 in Crime No.288/2021 of Kumaraswamy Layout Police Station, Subramanyapura Sub-Division, Bengaluru City, for the offence punishable under Sections 376, 420 and 506 of IPC.

2. Heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the respondent-State.

3. The factual matrix of the case is that this petitioner on 14.09.2021 took the victim girl to Athithi Comforts, Room No.101 to have food and subjected her for sexual act as against her wish, even though her marriage was already engaged with

some other person. After committing the said act, he promised that he would marry her and not to disclose the same to anyone and if she disclose the same to family members, he will take away her life.

4. Learned counsel appearing for the petitioner would vehemently contend that the petitioner is working as Assistant Executive Engineer in KPTCL and false case has been registered against him since, he is a Government employee and there is a delay of 1½ months in lodging the complaint. The alleged incident has taken place on 14.09.2021 and complaint was lodged on 03.11.2021 and no prima facie case has been made out against the petitioner and he has been in custody from 14.11.2021. The counsel would also submit that the victim is running 23 years, 10 months and there was no force and this petitioner is aged about 25 years and if he is continued in custody, it affects his carrier. Hence, he may be enlarged on bail.

5. Learned High Court Government Pleader appearing for the respondent-State would submit that, in 164 statement,

the victim girl has categorically stated before the learned Magistrate that she was subjected to sexual act forcibly and also caused life threat. He would also submit that CWs.5 and 6, who are employees of Home stay confirm petitioner bringing the victim girl to room. Apart from that, the medical evidence is also clear that, she was subjected to sexual act and subjecting her for sexual act is not ruled out and hence, there is a prima facie case against the petitioner.

6. Having heard the respective counsel and also on perusal of the material available on record particularly, 164 statement of the victim girl, it is seen that, she has stated that she was subjected to sexual act against her wish and also caused life threat. She has also stated that her marriage was already engaged with other bridegroom and hence, after committing the sexual Court, he promised that he would marry and also caused life threat. Apart from that, medical evidence is also clear that hymen was tear and opinion of the doctor is also clear that, she was subjected to sexual act and material collected not rules out subjecting her for sexual act. When such being the

material available on record, the fact that petitioner is a Government employee is not a ground to enlarge him on bail, when serious offence of rape is alleged against the petitioner. Prima facie, the medical evidence as well as the 164 statement disclose that the fact that victim was subjected to sexual act.

7. In view of the discussions made above, I pass the following:

ORDER

The Criminal Petition is rejected.

**Sd/-
JUDGE**

ST