

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19<sup>TH</sup> DAY OF MAY, 2022

BEFORE

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

**CRIMINAL PETITION NO.2985/2022**

**BETWEEN:**

SRI MANOJ N.,  
AGED ABOUT 21 YEARS,  
R/AT NO.62, 4<sup>TH</sup> MAIN,  
7<sup>TH</sup> CROSS, SAMPANGIRAM NAGAR  
BENGALURU - 560 027

... PETITIONER

(BY SRI UDAY KUMAR H.B., ADVOCATE)

**AND:**

THE STATE OF KARNATAKA  
BY JAYANAGAR POLICE STATION,  
BENGALURU-560 001.  
REP. BY SPP, HIGH COURT BUILDING  
BENGALURU-560 001.

... RESPONDENT

(BY SRI K.S.ABHJITH, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING TO SET ASIDE THE ORDER DATED 11.03.2022 PASSED BY THE FTSC-1, ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU AND PLEADED TO RELEASE THE PETITIONER ON BAIL IN CR.NO.246/2021 IN SPL.C.C.NO.128/2022 REGISTERED BY JAYANAGAR POLICE STATION, BENGALURU FOR THE OFFENCE P/U/S 366A OF IPC AND SECTION 4 OF POCSO ACT AND SECTION 9 OF CHILD MARRIAGE RESTRAINT ACT, NOW PENDING BEFORE FTSC-1, ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU.

THIS CRIMINAL PETITION COMING ON FOR ORDERS 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 in Crime No.246/2021 of Jayanagar Police Station, Jayanagar Sub-Division, Bengaluru City, for the offence punishable under Section 366(A) of IPC, Section 4 of Protection of Children from Sexual Offences Act, 2012 ('the POCSO Act' for short) and Section 9 of Child Marriage Restraint Act.

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 of the prosecution is that the victim girl is aged about 16 years and she was taken to Mangaluru and thereafter to different places by this petitioner and was subjected to sexual act. At the first instance, case has been registered for the offence punishable under Section 366(A) of IPC and during the course of investigation, when the

investigation revealed that she was subjected to sexual act, invoked Section 4 of POCSO Act and also Section 9 of Child Marriage Restraint Act at the time of filing the charge sheet.

4. Learned counsel for the petitioner would submit that the very complaint itself reveal that there was a love affair between the victim and the petitioner and victim herself had called her sister and stated that she is happy with the petitioner. Therefore, it is nothing but a love affair and victim herself went along with the petitioner and hence, he may be enlarged on bail.

5. Per contra, learned High Court Government Pleader appearing for the respondent-State would submit that, during the course of investigation, it has come to the light that the victim was subjected to sexual act and she was taken to Mangaluru and the petitioner had kept her in a lodge and subjected her for sexual act against her wish. Apart from that, 164 statement of the victim clearly reveals that she was subjected to sexual act forcibly and medical evidence also supports the same. Hence, the petitioner is not entitled for bail.

6. Having heard the respective counsel and also on perusal of the material available on record, no doubt, the FIR is registered only for the offence under Section 366(A) of IPC, during the course of investigation, statement of victim was recorded and she was examined before the learned Magistrate under Section 164(5) of Cr.P.C., wherein she reiterates that she was subjected to sexual act as against her wish. Apart from that, the medical examination report reveals that she was subjected to sexual act. When such being the material on record, the submission that investigation is already completed is not a ground to enlarge the petitioner on bail and it is an offence against the minor girl below the age of 18 years as defined under Section 2(d) of POCSO Act.

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

ORDER

The Criminal Petition is rejected.

**Sd/-  
JUDGE**

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