

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 23RD DAY OF JUNE, 2015

BEFORE

THE HON'BLE MR. JUSTICE G. NARENDAR

CRIMINAL PETITION No.100801/2015

BETWEEN:

VENKANAGOUDA S/O. RAMANAGOUDA NAYAK
AGE: 35 YEARS, OCC: FARMER,
R/O. SINGANAL VILLAGE,
TQ: GANGAVATHI, DIST: KOPPAL.

... PETITIONER

(BY SRI.: M B GUNDAWADE, ADV.)

AND

STATE OF KARNATAKA
BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
DHARWAD
THROUGH GANGAVATHI RURAL PS.

... RESPONDENT

(SRI.K.S.PATIL, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 438 OF
CR.P.C. SEEKING TO PASS AN ORDER OF DIRECTION
TO RELEASE THE PETITIONER ON BAIL IN CASE OF
HIS ARREST IN GANGAVATHI RURAL CIRCLE P.S.

CRIME NO.92/2015, FOR THE ALLEGED OFFENCES U/S 143, 147, 363, 366, 366(A), 504 R/W 149 OF IPC AND SEC. 8 OF POCSO ACT, 2012 ON THE FILE OF THE DIST. & SESSIONS JUDGE, KOPPAL.

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

O R D E R

Heard the learned counsel for the petitioner and the learned High Court Government Pleader for the State.

2. The petitioner is before this Court being aggrieved by the order of the trial Court rendered in Crl.Mis.No.116/20015 dated 30/5/2015. The case of the prosecution is that the present petitioner, who is arrayed as accused No.2 has abetted in the kidnap of the victim by the first accused. The case is primarily registered against the 5th accused, Aakashgowda, who is alleged to have removed the victim from the lawful custody of her parents and taken her to Bangalore.

3. The counsel for the petitioner would submit that the only allegation against the petitioner is that the victim was dropped by the present petitioner who picked her up on her return from Bellary and dropped her in her native village. He would submit that this act can by no stretch of imagination be classified as an offence of kidnapping. He would submit that on the contrary, the petitioner has helped in restoring the victim back to the lawful custody of her parents and hence, he would pray that the petition be allowed.

4. Per contra, the learned High Court Government Pleader would submit that the present accused is also part of the conspiracy as a result of which the victim was removed from the lawful custody of her parents. He would submit that the medical examination report is not conclusive as the medical officer has postponed the furnishing of her information till the receipt of the F.S.L. report. The sum and substance of the allegation

against this petitioner is that he picked up the victim on her return to Bellary and dropped her in her native village. This act *prima facie* cannot be construed as an act, which has removed the minor from the lawful custody of her guardian and hence, this Court is of the opinion that the petition deserves to be allowed. It is also found that the petitioner has not caused any bodily or grievous injury nor he used any deadly weapons. Infact the alleged act could be characterized as an innocent act.

5. Accordingly, the above petition is allowed. The respondent police are directed to enlarge the petitioner on bail in Crime No.92/2015, in the event of the arrest of petitioner subject to the following conditions:-

- i. The petitioner shall execute a self bond for a sum of Rs.50,000/- with two

sureties for the likesum to the satisfaction of the Investigating Officer.

- ii. The petitioner shall appear before the respondent police on every Monday between 9.00 a.m. to 10.00 a.m. commencing from 29/6/2015 and the petitioner shall appear before the Investigating Officer for the next five Mondays.
- iii. The petitioner shall not leave the jurisdiction of this Court without the prior written intimation to the respondent police and such intimation shall comply with his contact number and address to where he is travelling.
- iv. The petitioner shall during the pendency of this order shall not commit any offence or indulge in criminal activities.

- v. The petitioner shall appear before the Investigating Authority as and when summoned by way of written notice.
- vi. In the event of violation of any of the above conditions, the respondent police are at liberty to approach this Court for revocation of the said order.

Accordingly, the petition is allowed with the above terms.

Sd/-
JUDGE

Vmb