



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 17TH DAY OF JANUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO. 103795 OF 2023 (439)

BETWEEN:

PRABHAKAR TAKU GUNAGI
AGE: 51 YEARS,
OCC. AUTORICKSHAW DRIVER,
R/O. KHB COLONY, KARWAR,
DIST. UTTAR KANNADA-581301.

...PETITIONER

(BY SRI. V M BANAKAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH KARWAR WOMEN POLICE STATION,
R/BY STATE PUBLIC PROSECUTOR,
HIGH COURT, DHARWAD BENCH,
DHARWAD-580011.

2. SMT. POOJA W/O. MANJUNATH VERNEKAR
AGE: 42 YEARS, OCC. HOUSEWIFE,
R/O. INFORNT OF G K RAM BUILDING,
MANOHAR COMPOUND, HABBOWADA,
KARWAR, DIST. UTTAR KANNADA-581301.

...RESPONDENTS

(BY SMT. GIRIJA S. HIREMATH, HCGP FOR R1;
R2 NOTICE SERVED)

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.,
SEEKING TO ENLARGE THE PETITIONER/ACCUSED NO.1 ON BAIL
IN CONNECTION WITH KARWAR WOMEN P.S. CRIME NO.38/2023,
PENDING ON THE FILE OF ADDL. DISTRICT AND SESSIONS
JUDGE, FTSC-1, KARWAR, UTTARA KANNADA REGISTERED FOR
THE OFFENCES PUNISHABLE U/S 354-B, 504 OF IPC AND
SECTION 8 AND 21 OF THE POSCO ACT, 2012.





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

ORDER

Accused No.1 in Crime No.38/2023 registered by Karwar Women Police Station, for the offences punishable under Sections 354-B, 504 of the Indian Penal Code (for short, 'IPC') and Sections 8 and 21 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act') is before this Court under Section 439 of the Criminal Procedure Code (for short, 'Cr.P.C.').

2. Heard the learned counsel for the parties.

3. FIR in Crime No.38/2023 was registered by Karwar Women Police Station against the petitioner and another for the aforesaid offences on the basis of the complaint dated 20.11.2023 lodged by respondent No.2 herein. In the complaint, it is averred that the complainant's minor daughter and her friends, who were studying in the same school and were commuting to this



school in the auto rickshaw of the petitioner from their respective houses. It is alleged in the complaint that the petitioner who is a driver of the auto rickshaw in which the minor girls have commuting to the school was misbehaving with them, and he used to inappropriately touch their bodies and also abused them using filthy language. On 18.11.2023, the Principal of the school called the parents of the minor girls and informed them not to send their children in the auto rickshaw of the petitioner and also informed them not to lodge any complaint against him. It is in this background, on 20.11.2023, the complainant had approached the Police and lodged a complaint which had resulted in registering FIR in Crime No.38/2023 against the petitioner and the Principal of the School.

4. During the course of investigation, petitioner was arrested and remanded to the judicial custody on 21.11.2023 and his bail



application filed before the trial Court in Crl.Misc.No.38/2023 was rejected on 13.12.2023. Therefore, he is before this Court.

5. Learned counsel for the petitioner having reiterated the grounds urged in the petition submits that the petitioner is aged person and he is suffering from certain age related ailments for which he is being treated in the Jail hospital. He submits that major portion of the investigation is completed and accordingly, prays to allow the petition.

6. Learned High Court Government Pleader has opposed the bail application and she submits that serious allegations are made against the petitioner. Investigation in this case is under progress and accordingly, she prays to dismiss the petition.

7. The allegation against the petitioner is that he was misbehaving with the minor girls who were commuting in his auto rickshaw to their



school from their respective houses. The maximum punishment for the alleged offences is imprisonment for a period of 07 years. Petitioner is in custody from 21.11.2023. Major portion of the investigation is completed. The medical report of the petitioner which is produced by learned High Court Government Pleader today along with memo, would go to show that the petitioner has undergone an operation recently in the hospital of Karwar Institute of Medical Sciences, Karwar and he was admitted in the hospital from 05.01.2024 to 11.01.2024. The petitioner is advised to take follow up treatment and the medical report would go to show that the petitioner is diabetic and he is also suffering from blood pressure. Under these circumstances, I am of the opinion that the prayer made by the petitioner for grant of regular bail is required to be answered in the affirmative. Accordingly the following:



ORDER

Petition is allowed.

The petitioner is directed to be enlarged on bail in Crime No.38/2023 registered by Karwar Women Police Station, for the offences punishable under Sections 354-B, 504 of the IPC and Sections 8 and 21 of the POCSO Act, subject to the following conditions:

- i. The petitioner/accused No.1 shall execute personal bond for a sum of Rs.1,00,000/- with two sureties for the likesum, to the satisfaction of the jurisdictional Court.
- ii. The petitioner/accused No.1 shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons.
- iii. The petitioner/accused No.1 shall not directly or indirectly threaten or tamper with the prosecution witnesses.
- iv. The petitioner/accused No.1 shall not involve in similar offences in future.



NC: 2024:KHC-D:938
CRL.P No. 103795 of 2023

- v. The petitioner/accused No.1 shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

Sd/-
JUDGE

AC
List No.: 1 Sl No.: 19