IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 7TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO. 201437 OF 2024

(439(Cr.PC)/483(BNSS))

BETWEEN:

NAGESH S/O GORKANATH VANTE,
AGE: 26 YEARS, OCC: ELECTRIC WORK,
R/O. V K SALAGAR, TQ. KAMALAPUR,
DIST. KALABURAGI - 585316

…PETITIONER

(BY SRI SANGOLI NAGANNA, AND
SRI SHIVPUTRA S. UDBALKAR, ADVOCATES)

AND:

Digitally signed by SHILPA R TENIHALLI
Location: HIGH COURT OF KARNATAKA

1. STATE OF KARNATAKA THROUGH,
   MANTAL POLICE STATION,
   DIST. BIDAR – 586101,
   REPRESENTED BY ADDL. SPP
   HIGH COURT OF KARNATAKA,
   KALABURAGI BENCH.

2. SMT. KAVERI W/O KHEMLING MINCHNAKAR,
   AGE: 45 YEARS, OCC: HOUSE WIFE,
   R/O. BELMAGI TQ. ALAND,
   DIST. KALABURAGI-585101.

…RESPONDENTS

(BY SMT. MAYA T.R., HCGP FOR R1
R2 SERVED)

THIS CRL.P. IS FILED U/S. 439 OF CR.P.C (OLD) U/SEC 483 OF BNSS, PRAYING TO, ALLOW THE PETITION THERE BY ENLARGE THE PETITIONER ON BAIL REGISTER BY MANTAL POLICE IN CRIME NO. 51/2024 FOR THE OFFENCE U/SEC 376(2) (V), 504 OF IPC U/SEC 4 AND 6 OF POCSO ACT, 2012 AGAINST THE ACCUSED/PETITIONER, PENDING BEFORE II ADDITIONAL DISTRICT AND SESSION COURT, BASAVAKALYAN AND ANY SUCH OTHER ORDERS BE ALSO PASSED IN FAVOUR OF THE ACCUSED AS DEEMED FIT AND PROPER IN THE FACTS AND CIRCUMSTANCES OF THE CASE.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY)

1. Accused in Special Case No.5022/2024 pending before the court of II Addl. District and Sessions Judge, Bidar sitting at Basavakalyan arising out of Crime No.51/2024 registered by Manthala police station, Bidar for offences punishable under Section 376(2)(n), 506 of IPC and Sections 4 & 6 of POCSO Act, 2012, is before this Court under section 439 of Cr.P.C seeking regular bail.

2. Heard the learned counsel for the petitioner and learned HCGP for respondent No.1. Respondent No.2 who

is served in the matter has remained unrepresented before this Court.

3. FIR in Crime No.51/2024 was registered by Manthala Police Station, Bidar against the petitioner herein initially for the offences punishable under Sections 376(3), 504 & 506 of IPC and Sections 3, 4 & 5(j)(II) of POCSO Act on the basis of first information dated 13.06.2024 received from respondent No.2 who is the mother of the victim aged about 17 years.

4. During the course of investigation of the case, petitioner herein was arrested on 14.06.2024 and remanded to judicial custody. The investigation of the case is completed and charge-sheet has been filed against him for the aforesaid offences. Bail application filed by the petitioner before the trial court in Crl.Misc.No.5197/2024 was rejected on 07.10.2024. Therefore, the petitioner is before this Court.

5. Learned counsel for the petitioner submits that the victim girl has not co-operated in the present case for securing DNA test report. The petitioner who has no other criminal antecedent is in custody for more than six months.

6. Per Contra, learned HCGP has opposed the petition. He submits that the victim girl has made allegation against the petitioner in her statement recorded under Section 164 of Cr.P.C which would attract the alleged offences. Accordingly, prays to dismiss the petition.

7. First informant who is the mother of the victim girl had approached the police on 13.06.2024 after the victim girl who was medically examined was found to be pregnant. In the first information, it is alleged that, on enquiry the victim girl had informed the first informant that petitioner had sexual intercourse with her against her wishes and he had threatened her with dire consequences if she informs the incident to anybody.

8. During the course of investigation of the case, the petitioner was arrested on 14.06.2024. Investigation is completed and the charge-sheet has been filed. Statement of the victim girl aged 17 years was recorded by the jurisdictional magistrate under section 164 of Cr.P.C on 15.06.2024. Perusal of the same would go to show that the petitioner and the victim girl were acquainted to each other. Though the victim girl has stated that petitioner had physical relationship with her, she has not made any allegation that the petitioner had sexual intercourse with her against her wishes. She has also not stated in her section 164 Cr.P.C statement that, petitioner was the cause for her pregnancy. Records made available by the learned HCGP would go to show that petitioner had co-operated for the purpose of DNA test report and he also had given his blood samples for this test. However, the victim girl and her mother have opposed to give blood samples for the purpose of DNA test report.

9. Petitioner who has no other criminal antecedent is in custody. Investigation of the case is completed and the charge-sheet has been filed. Prosecution has cited 34 charge-sheet witnesses in present case and the trial in the case is yet to commence.

10. Under these circumstances, I am of the opinion that without expressing any opinion on the merits and demerits of the case, the petitioner's prayer for grant of regular bail needs to be granted. Accordingly, I proceed to pass the following order:

ORDER

The petition is allowed.

The petitioner is directed to be enlarged on bail in Crime No.51/2024 registered by Manthala police station, Bidar for offences punishable under Section 376(2)(n), 506 of IPC and Sections 4 & 6 of POCSO Act, 2012, pending in Special Case No.5022/2024 on the file of learned II Addl. District and Sessions Judge, Bidar sitting at Basavakalyan, subject to the following conditions:

a) The petitioner 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;

b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;

c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioner shall not involve in similar offences in future;

e) The petitioner 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/-
(S.VISHWAJITH SHETTY)
JUDGE

DHA
List No.: 1 Sl No.: 19
CT:PK