

Prajwal Revanna Vs. State By

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Court : Karnataka

Decided On : Oct-21-2024

Judge : M.Nagaprasanna

Appeal No. : CRL.P 9581/2024

Appellant : Prajwal Revanna

Respondent : State By

Advocate for Pet/Ap. : Sri. Prabhuling K. Navadgi

Judgement :

1 R Reserved on :

26. 09.2024 Pronounced on :

21. 10.2024 IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE21T DAY OF OCTOBER, 2024 BEFORE THE HON'BLE MR. JUSTICE M. NAGAPRASANNA CRIMINAL PETITION No.9581 OF 2024 BETWEEN: PRAJWAL REVANNA S/O H.D.REVANNA, AGED ABOUT34YEARS, HOLENARSIPURA TALUK, KASBA HOBLI, PADUVALAHIPPE, HASSAN PADUVALAHIPPE, KARNATAKA573211. ALSO AT:

83. SHIVASMITHA, RANOJI RAO ROAD, BASAVANAGUDI, BENGALURU - 560 004. ... PETITIONER (BY SRI PRABHULING K.NAVADGI, SR.ADVOCATE FOR

SRI ARUN G., ADVOCATE) AND: STATE BY CYBER CRIME POLICE STATION, CID, BENGALURU - 560 001. 2 (INVESTIGATED BY SPECIAL INVESTIGATION TEAM CID, BENGALURU) (REPRESENTED BY SPECIAL PUBLIC PROSECUTOR, HIGH COURT BUILDING, BENGALURU) ... RESPONDENT (BY PROF.RAVIVARMA KUMAR, SPL.PP A/W SRI B.N.JAGADEESHA, SPL.PP) THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 OF CR.P.C., (482 OF BNSS) PRAYING TO DIRECT THE RESPONDENT POLICE TO RELEASE THE PETITIONER / ACCUSED ON ANTICIPATORY BAIL IN THE EVENT OF HIS ARREST BY SPECIAL INVESTIGATION TEAM CID, BENGALURU IN CR.NO.2/2024 OF CYBER CRIME POLICE STATION, CID POLICE STATION, BANGALORE FOR THE OFFENCE P/U/S3762)(n), 376(2)(k), 506, 354(A), 354(B), 354(C) OF IPC AND SEC. 66E OF I.T. ACT, 2008, PENDING ON THE FILE OF THE XLII ADDL. CMM AT BENGALURU. THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR

ORDER

S ON 26.09.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:- 3 CORAM: THE HON'BLE MR JUSTICE M.NAGAPRASANNA CAV

ORDER

The petitioner/accused in custody concerning Crime No.2 of 2024 registered for offences punishable under Sections 376(2)(n), 376(2)(k), 354A, 354B, 354C, 506 of the IPC and Section 66(E) of the Information Technology Act, 2008 and pending before the LXXXI Additional City Civil and Sessions Judge, Bangalore city, is knocking at the doors of this Court seeking his release on grant of anticipatory bail under Section 438 of the Cr.P.C., for it having been turned down by the Court of Sessions.

2. Heard Sri Prabhuling K. Navadgi, learned senior counsel appearing for the petitioner and Prof. Ravi Varma Kumar, learned Special Public Prosecutor for the respondent.

3. Facts, in brief, germane are as follows:- A complaint comes to be registered on 05-05-2024 by the first informant narrating that she is the resident of K.R.Nagar

Taluk, Mysore District and her family members are daily wage workers. 4 About 8 years ago she along with her husband had joined the farm house of H.D.Revanna, father of the petitioner at Gannikada, Holenarsipura as household workers. The job was secured through Satish Babanna. It is alleged in the narrative that prior to the lock down in the year 2021 when she was cleaning the room at Gannikada house, the petitioner comes and enquires about the cleaning and asks her to bring drinking water. When she gets the water into the room, the petitioner is said to have locked the room and made sexual advances towards her and even tried to undress her. She resisted by pleading not to do so. But, without heeding to the pleadings, the petitioner is said to have sexually assaulted her. Not stopping at that, the petitioner is said to have recorded the happenings on his phone and threatened the lady that if she would reveal the incident to anyone, he would share the video with her son.

4. It is further alleged that she avoided to go to work whenever the petitioner was coming to Gannikada. Later she along with other maids came to Bangalore house at the instance of the mother of the accused Smt. Bhavani Revanna. It is said that even 5 in Bangalore, the petitioner committed similar acts of sexual assault upon her. Thereafter, again for the third time petitioner repeated the same act on the victim when he had come to Gannikada farm house. Due to the said incident she was distressed and did not disclose it to anyone on the ground that her grown up daughter was yet to be married. When the news about the petitioner became to circulate she gets the courage to register the complaint and by then her daughter also had got married. Therefore, the crux of the complaint that repeated sexual assault which would become an offence under Section 376(2)(n) of the IPC was alleged against the petitioner. The petitioner gets arrested in one of the crimes, as four crimes are registered against him. He also prefers an application seeking anticipatory bail under Section 438 of the Cr.P.C., all of them are turned down. Both the applications under Sections 438 and 439 of the Cr.P.C., are challenged before this Court in different petitions as they arise out of different crimes.

5. The learned senior counsel Sri Prabhuling K. Navadgi appearing for the petitioner would project the case to be hit by gross delay. It is his submission that the incidents that have 6 happened between 01-01-2021 and 31-01-2022 are

complained of on 05-05-2024 without any explanation for delay. It is his submission that the Apex Court in plethora of judgments has considered the aspect of delay of 5 to 7 months and has set aside those convictions for offences punishable under Section 376 of the IPC. He would further contend that the charge sheet is now filed. The petitioner would not be required for any custodial interrogation and, therefore, he should be granted anticipatory bail in the subject case, notwithstanding him being denied regular bail.

6. Per contra, the Special Public Prosecutor Prof. Ravi Varma Kumar would vehemently refute the submissions and by taking through the documents appended to the petition would demonstrate that the complaint is in great detail. The minute matters of what happened throughout the stay of the victim in the house are clearly narrated. He would, therefore, contend that the petitioner is addicted to what is afore-narrated. If he is sent out of prison, there is every possibility of him threatening the witnesses. There is also flight risk, as the petitioner has avoided to come to India by staying in Berlin, Germany for more than 35 days. He ran away from investigation. He would seek to place reliance upon several judgments of the Apex Court to contend that in such cases bail should not be granted, be it anticipatory or regular. The learned Special Public Prosecutor would take this Court through the plaint averments in O.S.No.3394 of 2023 instituted by the petitioner himself seeking restraint on 88 defendants not to publish or circulate his videos. It is his contention that the petitioner doing these acts was known in 2023 itself. It is, therefore, he went before the civil Court and sought to get an order of injunction against 88 defendants. The defendant No.88 was the driver of the petitioner one Karthik. The allegation is that it is he who has leaked the videos.

7. The learned senior counsel for the petitioner would join issue to contend that the judgments so relied on by the learned Special Public Prosecutor were either arising out of conviction or on acquittal after trial and in few cases where the allegation was rape of a minor. He would contend that those would not bind the Court considering grant of anticipatory bail under Section 438 of the Cr.P.C. 8

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

9. In the light of what is narrated hereinabove, I deem it appropriate to notice the spark that led to the entire episode of crime. Just before Parliamentary Elections, 2024, certain videos of the petitioner allegedly indulging in sexual acts, with and over several women surfaced and were circulated. Then emerges the subject complaint by the victim on 05-05-2024. The complaint becomes the foundation to the crime. The complaint reads as follows: (cid:3)(cid:4) :

05. 05/2024 (cid:10)(cid:11), SHO, CCPS (cid:13)(cid:14)(cid:16) (cid:18)(cid:19)(cid:20)(cid:21) (cid:24) (cid:25)..(cid:27). (cid:28)(cid:31) , "\$\$. XXXXX XXXX, XXXXXX XXXXXX9& : XXXXX, XXXX. (*+, (cid:4) XXXXX - .(cid:14)0 1 (+ 3.4(cid:10)- + +(cid:3)(cid:11) &&67 (cid:4)&0 (cid:14) 9 ((cid:27)9 ; (\$<(cid:20)7&. = 8 (cid:21) ?.(cid:20) @(cid:10)+ \$ (cid:28)B (cid:18)=(cid:25)D +B E(cid:18) (cid:19)1 F 99H (cid:11) < 1 ((cid:10)(cid:11) E(cid:10)(cid:25)7. (cid:4)D (cid:19)1 F(cid:14)0 9(cid:11)(cid:10)(cid:11) ((cid:27)9KL7 (cid:4)(cid:14)0 (cid:28)+ 9F (cid:28)+ (cid:28)+ M(cid:14)0 &&6 9 ((cid:27)9 (cid:18)\$<(cid:20)7D. +B E(cid:18)(cid:10)(cid:11) LF (cid:19)1(cid:14)0 (cid:20)P (cid:4) (cid:20). (cid:4)(cid:11) #RS +B (cid:18) (cid:4)(cid:14)0 (cid:11) (cid:18)6 (\$<7. (cid:4) F (cid:4)1 1 9(cid:20)(cid:3)(cid:11) (cid:3)9H \$ T0U (\$<7. 2021 VW-U 4 (cid:3) #RS +B (cid:19)1 (cid:4)(cid:11) (cid:3)# (cid:4) YV Z T0U ((cid:27)<(cid:20)7. #RS B YV U XXXX T0U \< F 9]. (cid:11) (cid:27)9H 4^ (cid:19)_ (cid:28) F (cid:18)].# (cid:4) (cid:19)_ (cid:11)].9 (cid:18)(cid:20) #RS B U 6 1 (cid:4)9 b (cid:18)#. (cid:4) (cid:28)U F(cid:11)(cid:4) Ai (cid:20) # (cid:11) &6 c < (cid:25)+ F6d, F6(@ (cid:28) (cid:19)(cid:11) ((cid:27)<#. (cid:4) U V-V bf @* (cid:28)* (cid:28)* (cid:28)6 F6(cid:10) F 9 g(cid:20) 0 F (cid:18)]. 1 gbf (cid:20) YV 9i ?.T. (cid:4) jk(cid:25)9 9-].9 g(cid:27)00. (cid:4) 0 F6 F(cid:21) (cid:18)]., 1 Y Y(cid:14)7 IL(cid:4)1V0 F(cid:11) (cid:28)

05. 05/2024 e 7 :30 PM (cid:132)\(cid:21)(cid:20)+ XXXXX @]. (cid:20)+ +(cid:3)(cid:11) (cid:133).(cid:11) (cid:18)+6 (cid:19)(cid:27) Tv 1 (cid:25)R(cid:10)(cid:25)9 (cid:133). o (cid:134)* 02/2024 376(2) (n) (k),354(A) 354(B), 354 (C), 506 of IPC, 6(E) IT Act jwAi # (cid:20)(cid:14)(cid:25)F<(cid:4).

(?.) 05/05/2024 This complaint becomes a crime in Crime No.2 of 2024 for the offences punishable under Sections 376(2)(n), 376(2)(k), 354A, 354B, 354C, 506 of the IPC and Section 66(E) of the Information Technology Act, 2008. Section 376(2)(n) reads as follows: 376. Punishment for rape.-(1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine. (2) Whoever,- (n) commits rape repeatedly on the same woman. (Emphasis supplied) 12 Section 376(2)(n) of the IPC punishes a person who indulges in repeatedly raping the same woman. The other offence is Section 376(2)(k) which reads as follows: (k) being in a position of control or dominance over a woman, commits rape on such woman; (Emphasis supplied) It deals with commission of rape on a woman upon whom control or dominance is exercised by the person committing such act. The other offences are the ones punishable under Section 354A, 354B and 354C of the IPC. They read as follows: 354. Assault or criminal force to woman with intent to outrage her modesty.-Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine. 354-A. Sexual harassment and punishment for sexual harassment.-(1) A man committing any of the following acts- (i) physical contact and advances involving unwelcome and explicit sexual overtures; or (ii) a demand or request for sexual favours; or (iii) showing pornography against the will of a woman; or 13 (iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment. (2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both. (3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. 354-B. Assault or use of criminal force to woman with intent to disrobe.-Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be

punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine. 354-C. Voyeurism.-Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine. Explanation 1.-For the purpose of this section, private act includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public. 14 Explanation 2.-Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section. Section 354 deals with assault or criminal force upon a woman with an intention to outrage her modesty. Section 354-A deals with sexual harassment; Section 354-B deals with assault or use of criminal force to disrobe a woman and Section 354-C deals with voyeurism. It becomes necessary to notice whether the ingredients of the complaint would meet the ingredients of the aforesaid offences. In the considered view of the Court it does.

10. The complaint is that the petitioner who is in a position of dominance over a maid of his house, has prima facie indulged in commission of these acts, and it is the case that not only at Gannikada house, Holenarasipura, but even at Bangalore, the petitioner had indulged in similar acts on the victim. Therefore, both the clauses (n) and (k) of sub-section (2) of Section 376 are prima facie met in the case at hand. The charge sheet is filed. The charge sheet appends to it reports of Forensic Science Laboratory 15 (FSL). The video transcript is also found in the charge sheet. It reads as follows: . . . 8]. 20210223-071653 ((cid:4)9 p(cid:27)q) +j

F(cid:11)\ , F6\@ F6\ (cid:4)(cid:3)F F(cid:11)(cid:10) ,B pL 1 (9]. B +j (cid:11)d F6, V0, F6((cid:19), F6@ (cid:19) ((cid:136)(cid:19)(cid:14)0) (cid:4)(cid:3)F @*, bf f(cid:28)*(cid:27), (cid:28)* (cid:28)6 F6(cid:10) +j F6\ (cid:4)(cid:3)F (cid:28)*(cid:27) (cid:28)6 F6+ +j F6\... (cid:4)(cid:3)F x (cid:28)6 F6(cid:10) +j @ F6 (cid:4)(cid:3)F x (cid:28)(cid:27) +j 9]. 20210223-071811 +j (cid:27)(cid:4) (cid:4)(cid:3)F (cid:28)x Z (cid:11) (cid:18)(cid:28) B n(cid:21)y 6 (cid:18)6L g(cid:4) g(cid:27). 6 g(cid:27) \$(#B g g(cid:27) +j < (cid:4)(cid:3)F 0. 0 10]. 20210223-071912 ((cid:4)9 p(cid:27)q) 16 (cid:4)(cid:3)F 9 6\$<(cid:19), @*, @*.... ~ (cid:4) \$=(cid:31)HF=, \$=(cid:31)HF<=, q* (cid:20)+ , gL9-B, pL, gL9B (cid:18)*\$<(cid:19) + 9(cid:139) (cid:28)* BB, pL @* BB (V 9 bf 9~(cid:140)< p+ * < ((cid:27)F<+) 18]. 20210521-113602 ((cid:4)9 p(cid:27)q) +j 6 1 U (0 1 (cid:4)(cid:3)F (cid:128) 0 (cid:4)<<(cid:20) (cid:24).. v. (cid:130)k +j

1. The frame numbers 0000 to 0943 (between 00:00 Sec to 00:31 Sec) are found continuous and not edited/morphed.

2. The frame numbers 0944 to 1522 (between 00:031 Sec to 00.51 Sec) are found continuous and not edited/morphed.

2. The SanDisk ultra SD card marked as D2 contains one video file and its details are as follows:

Sl	File Name	MD5Hash	Value	File Size	Duration in No.Sec
1	00000.MTS	d8faa15ed96ed6c970	752MB	8n:39s	bef86b01cb8af8

The facial features of female individual present in above mentioned video file are similar with respect to facial features of the female individual present in alleged video files of Samsung mobile phone marked as D1a. The system generated facial feature comparison reports are enclosed in a softcopy as Annexure-A2.

3. The complete image frames (1010 frames) of the video file and enhanced image frames of the alleged video file namely 20210223_071653.mp4 present in Samsung mobile phone marked as D1a are enclosed in a softcopy as Annexure-A3. 18

4. The complete image frames (288 Frames) of the video file and enhanced image frames of the alleged video file namely 20210223_071811.mp4 present in Samsung mobile phone marked as D1a are enclosed in a softcopy as Annexure-

A4.

5. The complete image frames (965 Frames) of the video file and enhanced image frames of the alleged video file namely 20210223_071912.mp4 present in Samsung mobile phone marked as D1a are enclosed in a softcopy as Annexure-A5.

6. The complete image frames (1523 Frames) of the video file and enhanced image frames of the alleged video file namely 20210521_113602.mp4 present in Samsung mobile phone marked as D1a are enclosed in a softcopy as Annexure-A6.

7. The comparison of respective voices based on auditory and feature extraction methods have revealed that, the respective speeches said to be of female speaker victim - Smt. XXXX found recorded in the alleged video files present in Samsung mobile phone marked as D1a and the sample speeches found recorded in the audio files of SanDisk micro SD marked as D3 are similar.

8. The comparison of respective voices based on auditory and feature extraction methods have revealed that, the respective speeches said to be of male speaker accused - Sri Prajwal Revanna found recorded in the alleged video files namely 20210223_071653.mp4, 20210223_071811.mp4 & 20210521_113602.mp4 present in Samsung mobile phone marked as D1a and the sample speeches found recorded in the audio files of SanDisk micro SD marked as D6 are similar.

9. Based on auditory and feature extraction analysis, the words zAil, zAi, r V vVj are uttered by female speaker said to be of victim-Smt. XXXX in video file namely 20210223_071653.mp4 present in the Samsung mobile phone marked as D1a.

10. Based on auditory and feature extraction analysis, the words P Vw, J sUAv zAil m Pqt are uttered by female speaker said to be of victim-Smt. XXXX in video file 19 namely 20210223_071912.mp4 present in the Samsung mobile phone marked as D1a.

11. Based on auditory and feature extraction analysis, the words AU DU g, Aiz, x are uttered by female speaker said to be of victim-Smt. XXXX in video file namely

20210521_113602.mp4 present in the Samsung mobile phone marked as D1a. The comparison of respective voices of both the petitioner and the complainant matches, is the report of FSL. What did the petitioner speak is as quoted hereinabove. The audio transcript is also analyzed by FSL which confirms the voice of the petitioner. This would clearly indicate prima facie commission of the offence by the petitioner. The remaining offences are under Section 354-A, 354-B and 354-C of the IPC. If the complaint and the findings of FSL are considered, it would prima facie indicate all the three being met. The petitioner disrobing the woman; trying to outrage her modesty as per the videos and indulging in sexual harassment, meet the ingredients of voyeurism as well, as obtaining under Section 354-C of the IPC.

11. It is a case where the petitioner is allegedly involved in offences that can lead to punishment beyond 20 years and stretch 20 upto life imprisonment, though all those would become a matter of trial. Whether the petitioner should be granted anticipatory bail in the subject petition is what is required to be considered. The Apex Court has laid down certain parameters for grant of bail in such cases. The Apex Court in the case of PRASANTA KUMAR SARKAR v. ASHIS CHATTERJEE¹, has held as follows: . . .

9. We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are: (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; 1 (2010) 14 SCC49621 (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger, of course, of justice being thwarted by grant of bail. [See State of U.P. v. Amarmani

Tripathi [(2005) 8 SCC21:

2005. SCC (Cri) 1960 (2)]. (SCC p. 31, para 18), Prahlad Singh Bhati v. NCT of Delhi [(2001) 4 SCC280:

2001. SCC (Cri) 674]. , and Ram Govind Upadhyay v. Sudarshan Singh [(2002) 3 SCC598:

2002. SCC (Cri) 688]. .]. (Emphasis supplied) The Apex Court lays 8 postulates for considering an application for grant of bail, be it regular or anticipatory. They are being whether there is prima facie reason to believe that the accused has committed the offence; nature and gravity of the accusation; severity of punishment; likelihood of the offence being repeated; witnesses being threatened or influenced; and justice being thwarted. In the considered view of the Court, all the postulates would run against the petitioner for denial of bail. There are reasons to believe albeit, prima facie, that the petitioner has committed the offence. Danger of the accused absconding or fleeing on bail is writ large, as the petitioner did not co-operate with investigation, sitting in Germany for more than 35 days after the 22 registration of the crime. Therefore, the risk of him being fleeing the country looms large. The allegation is that most of the accused in the entire episode of crime have allegedly indulged in threatening the witnesses. It cannot be ruled out in the case of the petitioner, if he is released on bail.

12. It is apposite to notice another judgment of the Apex Court in the case of BHAGWAN SINGH v. DILIP KUMAR², wherein it is held as follows: . . .

24. The fact that accused Deepak is the son of sitting MLA would disclose the domineering influence he would wield not only in delaying the proceedings but also in pressurizing the witnesses to either resile from their statement given during the course of investigation or pose threat to them from deposing against accused on their failure to act according to his dictates or induce them to testify as per his dictates or to help the defence of the accused.

25. The prosecutrix has made allegations against the concerned accused-respondents and it becomes amply clear from the plain reading of the complaint as

well as the testimony of the prosecutrix that accused persons had indeed participated in the gang rape. She also states that she was threatened that if she were to inform any family member of the alleged rape incident, they would make the video of rape to go viral. During the course of investigation of the FIR registered for gang rape, it was found that entries maintained at Hotel Samleti Palace, 2 2023 SCC OnLine SC105923 relevant to the date of incident was specifically missing; the CCTV cameras at the Hotel though found, the CCTV footage of the date of incident was not available; Vivek had called the prosecutrix several times and had exchanged number of messages; Vivek and Netram were in regular touch on phone and after the incident, accused Deepak was dropped from the charge-sheet only on the ground that call details of his mobile provided to the investigating authorities did not disclose about his presence at the scene of the incident on that particular date and as such the charge-sheet was filed only against Vivek and Netram. The prosecutrix had also named Deepak having participated in the incident of gang rape in her statement recorded under Section 161 and 164 of the Cr. P.C. and had also named him in the FIR. It is only on the strength of the application filed by complaint under Section 190-193 of Cr. P.C., the trial court took cognizance against Deepak for the offences punishable under Section 376D and section 5 of POCSO Act and said order has reached finality, as already noticed hereinabove. (Emphasis supplied) The High Court had granted bail. It is upturned by the Apex Court. While so doing, the Apex Court observes that the accused was the son of a sitting MLA and it would disclose domineering influence over the witnesses or pressurizing the witnesses. The allegations were grave and the facts were goading. Therefore, the accused who was enlarged on bail, is sent back to the prison. The findings of the Apex Court, in the aforesaid judgment, would prima facie become applicable to the facts of the case at hand, as the petitioner has prima facie indulged in the maraud of modesty of women. 24

13. Certain observations of the Apex Court in the case of SHYAM NARAIN v. STATE (NCT OF DELHI)³, would also become apposite to notice here. They read as follows: . . .

19. The aforesaid authorities deal with sentencing in general. As is seen, various concepts, namely, gravity of the offence, manner of its execution, impact on the

society, repercussions on the victim and proportionality of punishment have been emphasised upon. In the case at hand, we are concerned with the justification of life imprisonment in a case of rape committed on an eight year old girl, helpless and vulnerable and, in a way, hapless. The victim was both physically and psychologically vulnerable. It is worthy to note that any kind of sexual assault has always been viewed with seriousness and sensitivity by this Court. ... 22. In *State of Punjab v. Gurmit Singh* [(1996) 2 SCC384:

1996. SCC (Cri) 316 : AIR 1996 SC1393 this Court stated with anguish that crime against women in general and rape in particular is on the increase. The learned Judges proceeded further to state that it is an irony that while we are celebrating women's rights in all spheres, we show little or no concern for her honour. It is a sad reflection of the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. Thereafter, the Court observed the effect of rape on a victim with anguish: (SCC p. 403, para

21) 21. We must remember that a rapist not only violates the victim's privacy and personal integrity, but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault- it is often destructive of the whole personality of the victim. 3 (2013) 7 SCC7725 A murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female. (Emphasis supplied) 14. The Apex Court, a little earlier, in the case of *JUGENDRA SINGH v. STATE OF UTTAR PRADESH*⁴ has held as follows: . . .

49. Rape or an attempt to rape is a crime not against an individual but a crime which destroys the basic equilibrium of the social atmosphere. The consequential death is more horrendous. It is to be kept in mind that an offence against the body of a woman lowers her dignity and mars her reputation. It is said that one's physical frame is his or her temple. No one has any right of encroachment. An attempt for the momentary pleasure of the accused has caused the death of a child and had a devastating effect on her family and, in the ultimate eventuate, on the collective at large. When a family suffers in such a manner, the society as a whole is compelled to suffer as it creates an incurable dent in the fabric of the social milieu. The cry of the collective has to be answered and respected and that

is what exactly the High Court has done by converting the decision of acquittal to that of conviction and imposed the sentence as per law. (Emphasis supplied) If what is considered by the Apex Court to be impact of a rape or impact of outraging the modesty of the woman, the offence against the petitioner is undoubtedly grave. Though the charge sheet is 4 (2012) 6 SCC29726 filed in the case at hand, there is no warrant for the petitioner being released on grant of bail in Crime No.2 of 2024.

15. It is also necessary to notice as to whether the petitioner has the propensity to repeat the offence, once he is released on bail. It now becomes germane to notice the factum of institution of suit by the petitioner. One year prior to registration of complaint, the petitioner had instituted a suit and the prayer sought in the suit was for grant of relief of injunction. Order on I.A.No.I in O.S.No.3394 of 2023 reads as follows: Defendants, their agents, officers or any other persons acting though or claiming right under the defendants are hereby restrained by an order of ex-parte accused-interim temporary injunction from telecasting or broadcasting or printing or publishing or circulating or posting or accommodating the posting or transmitting or web hosting or sharing or expressing any defamatory articles, news, images, photograph, video footage and/or pictures involving or referring to plaintiff negatively impacting the plaintiff and committing any act or intentional omission raising negative image, character assassination or creating sarcastic views and leveling baseless and unverified allegations against the plaintiff and from discussing his character in any manner including showing live/still images or footages or pictures involving or referring to the plaintiff in any manner whatsoever, till the date of next hearing. Plaintiff is hereby directed to comply Order XXXIX Rule 3 CPC. 27 Issue warrant of T.I., Notice of I.A. No.I and SS to defendants R/by 27-07-2023. (Emphasis supplied) The order was prohibition of circulating, posting, sharing, expressing any defamatory articles, news, images, video footage or pictures involving the petitioner. Therefore, it is not that the petitioner was for the first time alleged to have got into such acts. The apprehension of circulation of all the aforesaid acts loomed large prior to registration of the crime. Prima facie, the alleged acts of the petitioner depicts, wanton lust, depravity of senses, and has a chilling effect down the spine of the society. The case projected would not come within the parameters of what the

Apex Court has held in the judgments quoted hereinabove, for grant of anticipatory bail. The judgments relied on by the learned senior counsel for petitioner would not lend any assistance for consideration of grant of anticipatory bail to the petitioner. For all the aforesaid reasons, I do not find any warrant to allow the petition and grant anticipatory bail to the petitioner. 28

16. The petition, therefore, deserves to be rejected and is accordingly rejected. It is made clear that the observations made in the course of order are only for the purpose of consideration of the case of the petitioner for grant of anticipatory bail and the same will not bind or influence any other pending proceeding. Sd/- (M. NAGAPRASANNA) JUDGE Bkp CT:MJ

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