

Basavaraju vs State of Karnataka

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Court : Karnataka Orders

Decided On : Feb-02-2024

Judge : Mohammad Nawaz

Appeal No. : CRL.P/282/2024

Appellant : Basavaraju

Respondent : State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF FEBRUARY, 2024 BEFORE THE HON'BLE MR JUSTICE MOHAMMAD NAWAZ CRIMINAL PETITION NO. 282 OF 2024 BETWEEN: BASAVARAJU S/O NAGANNA, AGED ABOUT 24 YEARS, R/AT KALLIPALYA VILLAGE, HOLAVANAHALLI HOBLI, KORATAGERE TALUK, TUMAKURU DISTRICT-572129. PETITIONER (BY SRI. SHARATH KUMAR G.M., ADVOCATE FOR SRI. MOHAMMED UMMAR FAROOQ, ADVOCATE) AND:

1. STATE OF KARNATAKA BY KORATAGERE POLICE, REP BY SPP,
Digitally HIGH COURT CAMPUS, signed by BANGALORE-560001.
SUMA Location:

HIGH 2. NAVEEN KUMARCOURT OF S/O DASAPPA, KA

R/AT KALKERE VILLAGE, KASABA HOBLI, KORATAGERE TALUK,
TUMAKURU DISTRICT-572129 RESPONDENTS (BY SRI. RAJAT
SUBRAMANYA, HCGP) THIS CRL.P IS FILED UNDER SECTION 439
CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON BAIL IN
SPL.C.C.NO.501/2022 (CR.NO.73/2022) OF KORATAGERE P.S.,
TUMAKURU DISTRICT FOR THE OFFENCE PUNISHABLE UNDER -2-
SECTIONS 363, 376(2)(n), 344 READ WITH 34 OF IPC AND SECTION
6 OF POCSO ACT AND SECTION 9 OF CHILD MARRIAGE ACT AND
SECTION 3(1)(w)(ii),3(2)(va) OF SC/ST

(POA) ACT PENDING ON THE FILE OF THE HONBLE
ADDL.DISTRICT AND SESSIONS JUDGE (FTSC-1) AT TUMAKURU IN
WHICH THIS PETITIONER IS ARRAYED AS ACCUSED NO.01. THIS
PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT
MADE THE FOLLOWING:

ORDER

This petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.73/2022 of Koratagere Police Station, Tumakuru.

2. On the basis of a missing complaint lodged by victim's relative, initially the case was registered for an offence punishable under Section 363 of IPC against the

petitioner. It is stated in the complaint that the victim aged about 16 years 3 months left her house on 12.03.2022 at about 11.00 a.m. saying that she has got some work in the Bank in Koratagere and thereafter, she

did not return. He suspected that the petitioner might have kidnapped her. After the victim was secured, her statement was recorded under Section 161 as well as

164 of Cr.P.C. Her medical examination was also conducted. -3- The accused was arrested on 09.08.2022. On completion of the investigation, charge-sheet was filed against the

petitioner/accused for the offence punishable under Sections 363, 376(2)(n), 344 read with Section 34 of IPC, Section 6 of the Protection of Children from Sexual Offences Act, 2012, Section 9 of the Prohibition of Child Marriage (Karnataka Amendment) Act, 2016 and Sections 3(1)(w)(ii), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

3. The case of the prosecution is that the petitioner herein induced the minor girl belonging to Scheduled Caste, saying that he is in love with her and

asked her to come to Madhugiri on 12.03.2022. From there, he took her to Chitradurga in a bus and kept her in the house of his friend - CW.4. Further, on 13.03.2022, he took her to one Sri. Kanive Anjaneyaswamy temple and forcibly married her and thereafter, took her to the house -4- of CW.4, wherein he committed aggravated penetrative sexual assault on her.

4. The learned counsel for the petitioner has

contended that the victim has categorically stated in her statement recorded under Section 164 of Cr.P.C. that she, on her own volition, accompanied the petitioner to Chitradurga and married him in one Anjaneyaswamy temple. He contended that the petitioner has neither forced nor threatened the victim and not kidnapped her etc., as alleged by the prosecution. He contends that the petitioner is in judicial custody since 09.08.2022 and submits that the petitioner is ready and willing to abide by

any conditions. Accordingly, he sought to allow the petition.

5. The learned High Court Government Pleader

contended that as per the school records, the date of birth of the victim is 08.12.2005 and therefore, she was minor as on the date of the commission of the offence. He submits that as per the medical examination report of the -5- victim,

she is pregnant. He therefore contended that there is a prima-facie case against the petitioner. He further contended that if the petitioner is enlarged on bail, he may try to intimidate and influence the victim girl not to give evidence before the Court. He therefore, sought to dismiss the petition.

6. I have perused the statement of the victim girl

recorded under Section 164 of Cr.P.C. She has stated that she asked the petitioner to come to Madhugiri and from there, she went with him to Chitradurga and married him in one Anjaneyaswamy temple. However, as per the school records, the date of birth of the victim is 08.12.2005. The incident of kidnap has taken place on 12.03.2022. According to prosecution, the petitioner married the victim in a temple on 13.03.2022. Thereafter, both of them stayed in the house belonging to CW.4, wherein the petitioner is alleged to have committed aggravated penetrative sexual assault on her. Hence, prima-facie, as on the date of commission of offence, the victim was a -6- minor. As rightly contended by the learned High Court Government Pleader, if the petitioner is released on bail, there are chances of tampering the victim. Hence, at this state this is not a fit case to enlarge the petitioner on bail. The petition is accordingly dismissed. Observations made in this order shall not influence the trial of the case. Sd/- JUDGE PMR List No.: 1 Sl No.: 26

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