

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JANUARY, 2022

BEFORE

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

CRIMINAL APPEAL NO.1933 OF 2021

BETWEEN:

Mr. Manoj Kumar M R
S/o M R Ranganath,
Aged about 31 years,
R/at no.39/1, 2nd Cross,
Near SBI Bank, Kamakshipalya,
Bangalore

(Now in Judicial custody,
Central Prison Bangalore

...Appellant

(By Sri Hasmath Pasha, Sr. Advocate for
Sri Nasir Ali, Advocate)

AND:

1. State of karnataka
Byatarayanapura Police Station,
Bangalore City,
(Rep. by Ld State Public Prosecutor,
High Court of Karnataka,
Bangalore)
2. Miss Nandadeepa
D/o Kuberrappa,
Aged about 27 years,
R/at no.1301, Pride apartment,
'D' Block, Opp. BHEL,
Deepanjalinagar,

Mysore road,
Bangalore City-76

...Respondents

(By Sri K.S.Abhijith, HCGP for R1;
Smt. Dhanalakshmi M, Advocate for R2)

This Criminal Appeal is filed under Section 14-A of SC/ST (POA) Act of Cr.P.C., praying to set aside the Order dated 21.12.2021 passed in Crl.Mis.No.11078/2021 passed by the Court below and consequently enlarge him on bail in Crime No.253/2021 of Byatarayanapura Police Station, Bangalore City, which is pending in Spl.C.C.1851/2021 on the file of Hon'ble LXX Additional City Civil and Sessions Judge and Special Judge for SC and ST Act, Bangalore City, for offences under sections 376, 313, 307, 417 of Indian Penal Code and under Sections 3(1)(w)(i)(ii) and Section 3(2)(v) of the SC and ST (Prevention of Atrocities) Act.

This Criminal Appeal coming on for **admission** through video conferencing this day, the Court made the following:

JUDGMENT

This is an appeal filed under Section 14-A of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act 1989 ('SC/ST Act' for short). The accused has preferred this appeal challenging the order dated 21.12.2021 passed by the LXX Additional City Civil and Sessions Judge and Special Judge, Bengaluru (CCH No.71), in

Crl.Misc.No.11078/2021 rejecting his application for bail under Section 439 Cr.P.C.

2. Heard Sri. Hasmath Pasha, learned Senior counsel for the appellant, Sri. K.S.Abhijith, learned High Court Government Pleader for the first respondent - State and Smt. Dhanalakshmi M, learned counsel for the second respondent.

3. Based on a report made by the second respondent, FIR came to be registered in Crime No.253/2021 by the first respondent - Police for the offences punishable under Sections 376, 313, 307, 417 of the Indian Penal Code and Sections 3(1)(w)(i)(ii), 3(1)(r), 3(1)(n), 3(2)(v) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989. Investigation was taken up and charge sheet has been filed now.

4. The allegations are that the appellant, while working as a Manager in Bajaj Finance Limited came in contact with the second

respondent who was also working in the same company. It is alleged that as they were working together acquaintance developed between them. The appellant told the second respondent that he was loving her, one day he took her to a hotel called Dr. Rajkumar International Hotel, Gandhinagar, Bengaluru. They spent a night in that hotel. At that time, the appellant told her that he would marry her and had forcibly intercourse with her. It is also stated that the appellant threatened that in case she would not respond to his call, he would upload the videos of their intimate moments in the social media and threatening so, he used to have sexual intercourse with her. She became pregnant in the year 2019, and this was brought to the notice of the appellant. The appellant took the second respondent to Kangaroo Care Hospital and forcibly got the pregnancy terminated. Later, he kept her in a rented house and used to go there and have

intercourse with her very often. In the year 2020, she became pregnant once again and the pregnancy was terminated for the second time. On 10.07.2021, it is stated that when the appellant visited the second respondent's residence, he told her that he would not marry her as she belonged to Madiga caste. It is also alleged that the appellant took the charger wire and tried to strangle her. She later tried to commit suicide becoming desperate in life. Thus, making all these allegations, she made a report to the Police on 06.09.2021.

5. Sri. Hasmath Pasha, learned Senior counsel would argue that in the report made by the second respondent, the last incident said to have taken place is shown as 10.07.2021, but complaint was made to the Police on 06.09.2021. FIR is a clear attempt of afterthought. He refers to a document to show that after 10.07.2021 in the month of August 2021, the appellant approached

Vanitha Sahayavani when he found it difficult to bear the torture of the second respondent. No doubt, the contents of the report and the charge sheet indicate that they spent intimate moments, but it also shows that the second respondent might have had consensual intercourse with the appellant. Even when they went to the hospital for the purpose of terminating the pregnancy, it was disclosed to the Doctors that the second respondent was the wife of the appellant, and she gave consent for termination of the pregnancy. The age of the second respondent is 27 years and in this view, the relationship between the appellant and the second respondent could be consensual. She knew the consequences of what she was doing. These being the facts and circumstances, at this stage, the appellant has been able to make out a *prima facie* case for grant of bail. The appellant has been in custody since 07.09.2021. Investigation is already completed.

The appellant is ready to abide by any condition that the Court may impose on him and in this view, bail should be granted. It is necessary that this appeal should be allowed and the appellant admitted to bail.

6. Learned High Court Government Pleader submits that the second respondent has given statement under Section 164 Cr.P.C which discloses that she was subjected to forcible intercourse by the appellant. Her pregnancy was also terminated forcibly. There are ample materials indicating the involvement of the appellant. He refused to marry the second respondent the moment he came to know that she belonged to the scheduled caste. Therefore, there is no case for granting bail.

7. The learned counsel for the second respondent also submits that the appellant used to have intercourse with the second respondent by

subjecting her to threat. On several occasions, the appellant had forcible intercourse with the second respondent even though she was unwilling for the same. Her pregnancy was also terminated forcibly. The appellant developed relationship with the second respondent in the guise of marrying her. It was a false promise to marry. In this view, the offence under Section 3(2) of SC/ST Act is made out. She also submits that because the appellant came to know about the case of the second respondent, he refused to marry her and this shows offence under the SC/ST Act being committed. Therefore, it is her submission that if bail is granted, the appellant will again resort to threatening the second respondent. Appeal is therefore to be dismissed.

8. Having heard both sides and perusing the charge sheet, it *prima facie* appears that the relationship between the appellant and the second respondent since the year 2018 is consensual. The

age of the second respondent is 27 years. She knew the consequences of having intercourse with the appellant. The appellant has produced a document which shows that both the appellant and the second respondent went to hospital for the purpose of terminating the pregnancy and at that time, they introduced themselves to be husband and wife. It is clearly stated in the letter issued by the Kangaroo Care Hospital to the Assistant Police Commissioner, Kengeri Sub-Division, Bengaluru on 04.11.2021 that the appellant and the second respondent signed Form I and Form C for the purpose of terminating the pregnancy. They introduced themselves as husband and wife. They visited the hospital two or three times for the purpose of termination of pregnancy. It appears that she got her second pregnancy terminated voluntarily. So, if all these aspects are taken into consideration, it is difficult to arrive at a conclusion at this stage that the appellant used to

have sexual intercourse with the second respondent forcibly.

9. If according to the report made by the appellant it was on 10.07.2021 that an incident took place and the appellant is said to have refused to marry the second respondent coming to know her caste and then attempted on her life. If this incident were to be true, it is not understandable as to why she kept quiet till 06.09.2021 without approaching the Police. A document produced by the appellant shows that in the month of August 2021, the appellant approached Vanitha Sahayavani to make a complaint against the second respondent being unable to bear her torture. If this aspect is taken into consideration it may be stated at this stage that probably coming to know about the complaint made by the appellant to Vanitha Sahayavani, she might have decided to approach Police on 06.09.2021.

10. Therefore, in the light of all these facts and circumstances, it is not difficult to arrive at a conclusion that the appellant has been able to make out a case for grant of bail. The Special Court ought to have considered these aspects of the matter at the time of deciding the application for bail. It appears that very routinely the Court below has come to conclusion for denying the appellant's application for bail. The order of the trial Court cannot be sustained for these reasons. Therefore the following:

ORDER

Appeal is allowed.

The order passed by the LXX Additional City Civil and Sessions Judge and Special Judge, Bengaluru (CCH No.71), dated 21.12.2021 in Crl.Misc.No.11078/2021 on the application of the appellant under Section 439 Cr.P.C., is set aside. The said application is allowed.

The appellant is ordered to be released on bail on his executing a bond for Rs.2,00,000/- (Two Lakhs only) and providing two sureties for the likesum to the satisfaction of the trial court. The appellant is also subjected to following conditions:-

- i. He shall not tamper with the evidence collected by the investigating officer and threaten the witnesses.*
- ii. He shall regularly appear before the trial court till conclusion of the trial.*
- iii. He shall not get himself involved in any other criminal case/s in future.*
- iv. If any complaint is received by the second respondent about an attempt by the appellant to influence her, the same will be viewed seriously for cancellation of bail.*

**Sd/-
JUDGE**