HC-KAR

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 22ND DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO.100540 OF 2026

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

BETWEEN:

SANJEEV NAIK @ SANJU S/O. CHANDRA NAIK,
AGE. 30 YEARS, OCC. COOLIE,
R/O. MALAVALLI TANDA, TQ. SHIKARIPUR,
DISTRICT. SHIVAMOGGA, NOW RESIDING AT
NEAR HIREKERUR COURT, TQ. HIREKERUR,
DIST. HAVERI-581173.

...PETITIONER

(BY SRI. S.B. DODDAGOUDAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
(BY HANSABHAVI POLICE STATION, HANSABHAVI)
REP. BY SPP, HIGH COURT OF KARNATAKA,
DHARWAD, HIGH COURT BUILDING, DHARWAD.

2. XXXX (VICTIMS)
R/O. MALAVALLI TANDA, TQ. SHIKARIPURA,
DIST. SHIVAMOGGA-577201.

...RESPONDENTS

(BY SMT. GIRIJA S.HIREMATH, HCGP FOR R1;
SRI. PRAKASH R.BADIGER, ADVOCATE FOR R2)

Digitally signed by
CHANDRASHEKAR
LAXMAN KATTIMANI
Location: HIGH COURT
OF KARNATAKA
DHARWAD BENCH
DHARWAD

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. (UNDER SECTION 483 OF BNSS, 2023) PRAYING TO ENLARGE THE PETITIONER/ACCUSED NO.1 ON REGULAR BAIL FOR THE ALLEGED FOR THE OFFENCES P/U/SEC. 64(2)(M), 351(2) AND 49 OF BNS 2023 IN HANSABHAVI PS CRIME NO.100/2025 (C.C.NO.1043/2025) PENDING ON THE FILE OF PRL. CIVIL JUDGE AND JMFC HIREKERUR AND ETC.,.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel appearing for the petitioner, the learned counsel appearing for respondent No.2 as well as learned High Court Government Pleader (HCGP) for respondent No.1/State.

2. This petition is filed seeking regular bail in C.C.No.1043/2025 before JMFC, Hirekerur.

3. It is stated that the matter is not yet committed to the Sessions Court. The offences are under Sections 64(2)(m), 351(2) and 49 of the Bharatiya Nyaya Sanhita, 2023 (for short, 'the BNS 2023').

4. The petitioner is aged 30 and claims to be married. The victim is aged 20 and unmarried. It is a fact that the victim has delivered a baby. The complaint is filed by the victim alleging rape against the petitioner. The statement of the complainant/victim is also recorded under Section 183 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS 2023').

5. In her statement, the victim has stated that she has gone along with the petitioner on a bike and he had taken her near his house as well as to a nearby forest. In that place, he has committed rape on her and the act is done without the victim’s consent and despite her protest is the gist of the complaint. The complainant/victim in her statement before the Magistrate has also stated that, after the first incident, she has gone to forest and petitioner's house on couple of occasions where the petitioner had sexual intercourse with the complainant/victim.

6. It is stated that, whenever the children entered the house, the petitioner used to send the complainant/victim to the upstairs. Referring to the circumstances, learned counsel for the petitioner would submit that, act seems to be consensual assuming that the petitioner has indulged in sexual intercourse with the victim.

7. In addition, it is also the submission that, the petitioner is innocent and a false case is filed against the petitioner. The DNA report has excluded the petitioner from the

possibility of he being the person responsible for the child, delivered by the complainant/victim.

8. It is also submitted that, the petitioner is in custody since 9 months and charge sheet is already filed and custodial interrogation is not required.

9. Learned counsel would also urge that, there are no criminal antecedents against the petitioner. He has not been convicted for any offence on earlier occasion and he has deep roots in the society and is available for fair trial and would undertake to cooperate for the speedy and fair trial before the jurisdictional Court.

10. Learned High Court Government Pleader as well as the learned counsel for the respondent No.2 oppose the petition on the ground that the petitioner on multiple occasions had sexual intercourse with the complainant/victim against her wish and consent and victim has delivered the baby. Merely, because the DNA report does not match the DNA profile of the petitioner and excludes the possibility of the petitioner being responsible for the birth of the baby, it cannot be conclusively held that the petitioner has not committed such offence. It is

urged that, the DNA report is only a piece of evidence and it requires further corroboration. Thus, both the sides oppose for grant of bail.

11. The Court has considered the contentions raised at the Bar and perused the records.

12. As can be seen from the records, the petitioner is in custody since 9 months and charge sheet is already filed. It is not the case of the respondents that the petitioner is a habitual offender or he has been convicted on earlier occasions. The DNA report does not point finger towards the petitioner. It excludes the possibility of the petitioner being responsible for the birth of the baby of the victim.

13. It is indeed true that, the DNA report is only a piece of evidence and requires corroboration and that report by itself does not absolve the petitioner. The entire case has to be considered based on the evidence to be adduced before the Trial Court.

14. The DNA report is one of the mitigating factors in favour of the petitioner to consider his bail petition. The report creates a doubt about the case of the prosecution at this stage.

15. Considering all these aspects, the Court is of the view that the petitioner has made out a case for grant of bail. Hence, the following:

ORDER

The petition is ***allowed*** subject to following conditions:

i. Petitioner shall be enlarged on bail in C.C.No.104/2025 before JMFC, Hirekerur on executing a personal bond for Rs.1,00,000/- with two sureties for the likesum to the satisfaction of the Trial Court.

ii. Petitioner shall punctually attend the Trial Court on each and every posting unless expressly exempted.

iii. Petitioner shall cooperate with the Trial.

iv. Petitioner shall not threaten, induce, or promise anyone acquainted with the facts, nor tamper with evidence or witnesses.

v. Petitioner shall not leave the jurisdiction of the police station without prior information and intimation to the jurisdictional police.

vi. Petitioner shall not commit any offences.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

CLK,KGK
CT: UMD
List No.: 1 Sl No.: 32