IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 19TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO.104974 OF 2025

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

BETWEEN:

SHREEDHAR S. S/O. SHREENIVASA,
AGE. 24 YEARS, OCC. FARMER,
R/O. 8TH WARD, HOSABAVI NEAR
KUDUTHINI, BALLARI DIST-583115.

...PETITIONER

(BY SRI. B. ANWAR BASHA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
(THROUGH KUDUTHINI P S)
REPRESENTED BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
AT DHARWAD-580001.

2. PRAKASH S/O. HANUMANATHAPPA,
AGE. 38 YEARS, OCC. FARMER,
R/O. 14TH WARD, INDRA NAGAR,
KUDUTHINI, BALLARI DIST-583115.

...RESPONDENTS

(BY SRI. ABHISHEK MALIPATIL, HCGP FOR R1;
NOTICE TO R2 IS SERVED)

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 ALLOW THIS PETITION AND ENLARGE THE PETITIONER ON BAIL IN SPL CASE NO.1274/2025 IN CONNECTION WITH (CRIME NO.120/2025 REGISTERED IN KUDITHINI) PS UNDER SECTION 137(2), 64, 65(1), 96, 351(2), OF BNS AND 4, 6 OF PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT 2012, AND SEC 9 AND OF THE PROHIBITION OF CHILD MARRIAGE (KARNATAKA AMENDMENT ACT 2016). PENDING TRIAL OF THE CASE, BEFORE THE ADDL. DIST. AND SESSIONS JUDGE F.T.S.C I BALLARI.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

1. Heard the learned counsel for the petitioner and learned High Court Government Pleader for respondent No.1-State. Respondent No.2/complainant is served and is not represented.

2. This petition is filed seeking regular bail in connection with Crime No.120/2025 registered before Kuduthini Police, which after investigation resulted in Special Case No.1274 of 2025 before Additional Sessions Judge Ballari.

3. Petitioner is accused of offences punishable under Sections 137(2), 64, 65(1), 96 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, and Section 9 of the Prohibition of Child Marriage Act, 2006.

4. Learned counsel appearing for the petitioner would submit that, the petitioner and the victim were known to each other as they come from the same village. The complaint is filed by the victim's father who in his complaint dated

29.08.2025 has stated that, his daughter/victim aged 16 has left the home at around 08.00 p.m. and has not come back till 08.30 p.m. It is stated that, despite his best effort he could not trace his daughter and he filed the complaint around 10 o'clock on the same day and he suspected that the petitioner has kidnapped her/victim.

5. Two days later, the victim returned to the complainant's house and it is stated that, she was wearing a 'Thali'. On enquiry, she revealed that she had been kidnapped. The victim, in her statement at page No.92, has stated that, the petitioner is the son of her father's friend and used to visit her house. She has further stated that, the petitioner used to behave inappropriately with her by hugging and kissing her, and that she had not revealed the same to her father.

6. It is also stated that, on 02.07.2025, the petitioner asked her to come near the Government Hospital, where he again hugged and kissed her and thereafter took her near a tree and had sexual act with her.

7. Thereafter, the victim states that she dropped out of college and that, on 28.08.2025, the petitioner took her on his motorcycle to Venuvirapura Village. She further states that,

at the said place, the petitioner tied a turmeric thread *(*Thali/Mangalsutra*)* around her neck. Thereafter took her to his aunt's house.

8. It is further stated that, on 29.08.2025, the petitioner dropped the victim at her father's house.

9. Referring to these circumstances, learned counsel for the petitioner would submit that the act appears to be consensual if the contents of the complaint as assumed to be correct. Though, the consent of a girl below age 16 is not valid consent in the eye of law, certainly this is a factor that can be taken into consideration while considering the application seeking bail is the submission.

10. In addition, it is further urged that the charge sheet is filed and investigation is over, and the petitioner is ready to abide by all terms and conditions for his release on bail. The petitioner has already spent around 9 months in custody, and custodial interrogation is not required is the submission.

11. It is his further submission that, the contents of the complaint and the statements do not indicate that the alleged act was against victim’s wish or that victim was forced.

12. Learned High Court Government Pleader would oppose the petition on the premise that, the offences alleged are heinous. The alleged consent of the victim is no consent in the eye of law. The evidence has been collected, the charge sheet is filed, and a strong case is made out. In case the petitioner is released on bail, he may not co-operate with the trial.

13. The Court has considered the contentions urged and perused the records.

14. It is to be noticed that, the contents of the complaint and the statement made by the victim reveal that the complainant's family and the family of the petitioner were known to each other. The petitioner often used to visit the victim's house.

15. The circumstances indicated in the statement by the victim suggest that probably the victim might have cooperated with the petitioner in going out along with him, and she stayed in the petitioner's aunt's house. It is also relevant to notice that the complainant claims that she came to the house wearing a 'Thali' around her neck.

16. Though the consent of the victim is not consent in the eye of law since she is aged under 18, the Court is of the view that the factors referred to above may be taken into consideration while considering the petition seeking bail. More so in a situation where the investigation is over and the accused has spent around 9 months in custody.

17. Learned counsel for the petitioner referred to the judgment of the ***Bombay High Court in Vijay Chand Dubey v. the State of Maharashtra and another***[1], and also the order of the Apex Court in ***Deshraj alias Musa v. State of Rajasthan and another***[2], to contend that even in a case under the provisions of POCSO Act alleging rape, the discretion can be exercised in favour of the petitioner to release the accused on bail. In the aforesaid cases the Court has granted bail considering the facts and situations therein. Facts in this case attract the ratio laid down.

18. Though the learned counsel would oppose the petition on the premise that the petitioner may not co-operate with the investigation and may not co-operate with the trial,

---

[1] ***Criminal Bail Application No.3899 of 2024***

[2] ***2024 SCC OnLine SC 2709***

the Court is of the view that stringent conditions can be imposed to ensure that the petitioner co-operates for a speedy trial.

19. Hence the following:

ORDER

Petition is ***allowed*** subject to the following conditions:

i. Petitioner shall be enlarged on bail in Crime No.120/2025 on executing a personal bond for ₹1,00,000/- with two sureties for the likesum to the satisfaction of the Trial Court;

ii. Petitioner shall report to the Investigating Officer of concerned Police Station once every month on the third Saturday between 10:00 am to 7:00 pm for the first three months and thereafter as and when called;

iii. Petitioner shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for revocation of this order;

iv. Petitioner shall not leave the jurisdiction of Court without prior permission of the Trial Court;

v. Petitioner shall not influence any of the witnesses or tamper with the evidence in any manner;

vi. Petitioner shall keep the Investigating Officer informed of his current address and mobile contact number and / or charge of residence or mobile details, if any, from time to time;

vii. Any infraction of the above conditions shall entail revocation of this order.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

RHR/-CT: UMD
List No.: 1 Sl No.: 13