



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 8TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO.100653 OF 2026

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

BETWEEN:

UMESH H. Y. @ UMESH S/O. YERRISWAMY,
AGE. 21 YEARS, OCC. NIL,
R/O. WARD NO.2, RUPANAGUDI VILLAGE,
TQ. AND DIST. BALLARI-583104.

...PETITIONER

(BY SRI. VADIRAJ P.VADAVI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
BY P.D HALLI PS
TQ. AND DIST. BALLARI
REPRESENTED BY ADDL. S.P.P.,
HIGH COURT PREMISES, DHARWAD-580011.
2. VARALAKSHMI W/O. NAGARAJA,
AGE. 35 YEARS, OCC. FARMER,
R/O. WARD NO.2, RUPANAGUDI VILLAGE,
TQ. AND DIST. BALLARI-583 104.

...RESPONDENTS

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

THIS CRIMINAL PETITION IS FILED UNDER SECTION 483 OF BNS (UNDER SECTION 439 OF CR.P.C.), PRAYING TO ENLARGE THE PETITIONER/ACCUSED NO.1 ON REGULAR BAIL IN CRIME NO.141/2025 REGISTERED BY P.D. HALLI UNDER SECTIONS 64, 96, 351(2), 352 OF BNS 2023 AND UNDER SECTION 4 AND 6 OF THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012, ON THE FILE OF THE ADDL. DISTRICT AND SESSIONS JUDGE FTSC-I, BALLARI, IN SPL.C. NO.1262/2025, IN THE INTEREST OF JUSTICE AND EQUITY.

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 and the learned High Court Government Pleader appearing for the respondent.

2. This petition is filed seeking regular bail by invoking Section 439 of Criminal Procedure Code / Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS).

3. The petitioner is aged 21 years. He is in incarceration since 13.09.2025. The petitioner is arrested in connection with Crime No.141/2025 registered by PD Halli Police for the alleged offence under Sections 64, 96, 351(2), 352 of Bharatiya Nyaya Sanhita, 2023 ('BNS' for short) and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO' for short). The case is registered in Special Case No.1262/2025 before the Sessions Judge, FTSC-1, Ballari.

4. The chargesheet materials as well as the complaint averments would indicate that the complaint and the



chargesheet are filed against the petitioner on the accusation that the petitioner had sexual intercourse with the victim who was aged 17 years.

5. The contents of the complaint as well as chargesheet would also indicate that complainant and the accused had acquaintance with each other and they used to roam around together for some time. It is stated in the complaint that the complainant's mother having come to know about the relationship of the complainant and the accused had warned the accused once. However, despite that the accused continued to maintain relationship with the complainant.

6. It is stated that two weeks prior to the complaint dated 12.09.2025, the accused escorted the complainant on his motorbike and took to his residential house and committed rape and gave a life threat, in case, the incident is revealed to anyone.

7. It is further stated that few days later, the victim's mother came to know about the continued relationship and when the complainant's parents went to the house of the accused, the father of the accused threatened the complainant



and the complaint is lodged on the allegation that accused had sex with the complainant on the promise that he would marry the complainant.

8. The chargesheet is filed as already noted and in the chargesheet, the complainant in her statement under Section 161 of the Code of Criminal Procedure (Section 183 of BNSS) and has reiterated the contents of the complaint.

9. Learned counsel appearing for the accused would submit that the chargesheet is already filed. The accused is in custody since 13.09.2025. Custodial interrogation is not required and it was not a case of forceful intercourse even if the allegations are true. It is urged at the most, assuming that the contents of the complaint are true, it has to be seen as a consensual act between the complainant and the accused.

10. Given the fact that the accused is aged 21 and the complainant is said to be aged 17, the Court has to take into consideration the mitigating circumstances and grant bail. It is also urged that the stringent conditions may be imposed to ensure that there is a fair trial.



11. Learned High Court Government Pleader would oppose the bail petition and would urge that there is every likelihood of the petitioner tampering the evidence and threatening the prosecution witnesses. The petitioner may not co-operate for trial and may abscond. Thus, he would urge that the petition be dismissed. He would also submit that the offence alleged is heinous and the petitioner is not entitled to the discretionary relief of bail.

12. Learned counsel for the petitioner by way of reply would refer to the judgment of the Bombay High Court in ***Vijay Chand Dubey v. the State of Maharashtra and another¹***, and also the order of the Apex Court in ***Deshraj alias Musa v. State of Rajasthan and another²***, 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.

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

² ***2024 SCC OnLine SC 2709***



13. The Court has considered the contentions urged and perused the records. The Court has also referred to the two judgments cited above.

14. In the aforementioned case in ***Vijay Chand Dubey*** (supra) the Bombay High Court has granted bail in a case where the accused was chargesheeted for offences under Sections 4, 6 and 8 of the POCSO Act. Reference has been made to in the said judgment to the judgment of the same High Court in ***Sunil Mahadev Patil v. the State of Maharashtra***³. The Bombay High Court has also formulated the points that are to be taken into consideration while considering the application for bail. The said points are as under:

"12. The overall considerations while deciding such applications can be summed up as –

When a boy and a minor girl are in love with each other and chose to live together without consent of their parents, then the following factors are to be considered:

(i) What is the age of the prosecutrix, who is minor.

(ii) Whether the act is violent or not.

(iii) Whether there are antecedents or not.

³ ***Bail Application No.1036 of 2015***



(iv) Whether the offender is capable of repeating Act or not.

(v) Whether there is likelihood of threats or intimidation, if at all the boy is released.

(vi) Whether any chance of tempering (sic) with the material witnesses when their statements are recorded.

(vii) It is also to be taken into account in such cases that a boy in his early 20's deserves to get employment and to plan, stabilize and secure his future."

15. In the said judgment, it is to be noticed that the accused was aged 19 years; the complainant was aged 14 years. It is further noticed that the accused was in incarceration for 5 years 2 months and 23 days when the bail petition was taken up for hearing. Undoubtedly, in the present case the duration of incarceration is not as much as that in the case of **Vijay Chand Dubey** (supra). The accused is under incarceration since 13.09.2025. However, the circumstances would indicate that the complainant and the accused had acquaintance and were in a relationship. The one statement in the complaint and the one statement under Section 161 would allege that the accused had forcible sexual intercourse with the complainant.



16. The Apex Court in ***Deshraj alias Musa*** (supra) has taken note of the circumstances prevailing in that case and granted bail to the accused who is accused of offence under the provisions of the POCSO Act. In that case, it is noticed that the accused was aged 18 and half years and the complainant was aged 16 years. It is noticed that there are no other criminal antecedents against the petitioner in the present case whereas in the case of ***Deshraj alias Musa*** (supra), the Apex Court has granted bail overruling the objection of the State that the accused has criminal antecedents.

17. After considering the chargesheet materials, the Court is of the view that there are few mitigating circumstances which persuade the Court to grant the bail despite the victim is shown to be below 18 years. Considering the fact that the chargesheet is already filed and also considering the fact that the complainant and accused appeared to be in relationship before the alleged incident and also considering the fact that the accused has no criminal antecedents against him, the accused has to be enlarged on bail subject to conditions to take



care of the apprehension of the respondent/State. Hence, the following:

ORDER

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

- i. Petitioner shall be enlarged on bail in Crime No.141/2025 on executing a personal bond for ₹2,00,000/- with two solvent 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**

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