NC: 2023:KHC:33495
CRL.P No. 7017 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 7017 OF 2023

BETWEEN:

1. HARISH A C
   S/O LATE CHIKKAMARIGOWDA
   AGED ABOUT 20 YEARS
   R/AT ALAM SHETTIHALLI VILLAGE
   ATHAGURU HOBLI
   MADDUR TALUK
   MANDYA 571 429.

...PETITIONER

(BY SMT.RAKSHA KEERTHANA, ADVOCATE FOR
SRI. KEMPARAJU, ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
   KESTURU POLICE STATION
   REP BY HIGH COURT GOVT PLEADER
   HIGH COURT COMPLEX
   BENGALURU 560 001.

2. JAYARAMU
   S/O LATE HOTTE MCHANNEGOWDA
   AGED ABOUT 45 YEARS
   R/AT CHINNANNADODDI VILLAGE
   ATHAGURU HOBLI
   MADDUR TALUK
   MANDYA DISTRICT-571 433

...RESPONDENTS

(BY SMT. N.ANITHA GIRISH, HCGP)

Digitally signed by SUMITHRA R
Location: High Court of Karnataka

THIS CRL.P IS FILED U/S 439 CR.PC PRAYING TO ENLARGE THE PETITIONER ON REGULAR BAIL IN

CR.NO.62/2023 (IN SPL.C.NO.178/2023) OF THE RESPONDENT KESTHUR POLICE STATION, MANDYA DISTRICT, FOR THE OFFENCE P/U/S 344, 354D, 363, 366, 376(2)(N), 376(3) OF IPC AND SEC. 4, 6 AND 12 OF POCSO ACT, PENDING ON THE FILE OF THE HONBLE ADDL. DISTRICT AND SESSIONS JUDGE, FTSC-II AT MANDYA.

THIS PETITION IS COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Accused in Spl.C.No.178/2023 pending before the Court of Additional District and Sessions Judge-FTSC-II, Mandya arising out of Crime No.62/2023 registered by Kesthur Police Station for the offences punishable under Sections 363, 366, 354D, 376(3), 376(2)(n), 344 of IPC and Section 4, 6 and 12 of POCSO Act, is before this Court under Section 439 of Cr.P.C.

2. Heard the learned counsel for the parties.

3. On the basis of the complaint dated 07.05.2023 lodged by Jayaram-father of the victim girl, FIR in Crime No.62/2023 was registered by Kesthur Police, Mandya for the for offence under Section 363 IPC against the petitioner herein. In the complaint it is averred that, the complainant's minor daughter was staying in the house of

complainant's mother-in-law. About 20 days prior to the complaint, complainant's mother-in-law informed him that his minor daughter had told her that she was in love with Harish and she intended to marry him. On 06.05.2023 complainant's mother-in-law called him and informed that the complainant's minor daughter was missing from house. Thereafter, efforts were made to trace the girl. However, the complainant and his relatives could not trace the girl. Therefore he had approached the police and lodged the complaint which had resulted in registering FIR in Crime No.62/2023. During the course of investigation, the petitioner was arrested on 22.05.2023. Investigation in the case is completed and charge sheet has been filed. Petitioner's bail application filed before the Court of Additional District and Sessions Judge-FTSC-II in Spl.C.No.178/2023 was rejected on 14.07.2023. Therefore, the petitioner is before this Court.

4. Learned counsel for the petitioner submits that the victim and the petitioner were in love and victim had

voluntarily accompanied the petitioner. He submits that the victim has not stated anything as against the petitioner during the course of her Section 164 of the Cr.P.C. statement.

5. Per contra, learned HCGP has opposed the bail application.

6. The materials on record would go to show that the complainant's mother-in-law had informed complainant, about 20 days prior to the date of complaint that the victim girl had informed her that she was in love with Harish and she intended to marry him. Thereafter, on 06.05.2023 the victim girl was found missing from the house. It is in this background a complaint was lodged on 07.05.2023 against the petitioner-Harish. During the course of investigation, the petitioner and the victim girl were traced on 20.05.2023 and they were brought back. Section 164 Cr.P.C. statement of victim girl was recorded on 23.05.2023. In her statement before the jurisdictional Magistrate the victim girl has stated that she was in love

with the petitioner and on 06.05.2023 at 8.00 p.m. she had gone along with the petitioner in his bike to Mallur in Kolar District, where they had stayed in a lodge. She had not made any allegation against the petitioner with regard to any sexual assault committed by him on her against her wishes. Investigation in the case is complete and charge sheet has been filed. Petitioner who is aged about 20 years is in custody since 22.05.2023. Under these circumstances, I am of the considered view that the petitioner has made out *prima facie* case for grant of regular bail.

7. Accordingly, the petition is allowed. The petitioner - accused is directed to be enlarged on bail in Crime No.62/2023 registered by Kesthur Police Station, Mandya for the offences punishable under Sections 363, 366, 354D, 376(3), 376(2)(n), 344 of IPC and Section 4, 6 and 12 of POCSO Act, subject to the following conditions:

a. The petitioner shall execute personal bond for a sum of Rs.1,00,000/- (Rupees One lakh only) with two sureties for the

likesum, to the satisfaction of the jurisdictional Court/concerned court;

b. The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;

c. The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d. The petitioner shall not involve in similar offences in future;

e. The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

Sd/-
JUDGE

HB
List No.: 1 Sl No.: 48