
**Naveen Vs State By Kencharla Halli Police Station Represented By Spp
High Court Of Karnataka Bengaluru, 560001 & Others**

Criminal Petition No. 984 Of 2023

Court: Karnataka High Court At Bengaluru

Date of Decision: June 14, 2023

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 439#Indian Penal Code, 1860 " Section 376(2)(n), 506

Citation: (2023) 06 KAR CK 0022

Hon'ble Judges: H.P. Sandesh, J

Bench: Single Bench

Advocate: B. Ravindra, K.P. Yashodha

Final Decision: Dismissed

Judgement

H.P. Sandesh, J

1. This petition is filed under Section 439 of Cr.P.C. seeking regular bail of the petitioner in Crime No.5/2022 of Kencharlahalli Police Station,

Chickballapura District for the offence punishable under Sections 376(2)(n) and 506 of IPC.

2. Heard the learned counsel appearing for the petitioner and the learned High Court Government Pleader appearing for respondent No.1-State.

3. This is a successive bail petition. This Court earlier rejected the bail petition vide order dated 03.06.2022. While rejecting the bail petition, this Court

had taken note of the fact that the victim girl was aged about 16 years and also taken note of 164 statement of the victim girl, wherein, it is stated that

she became pregnant on account of the act of the petitioner herein and she delivered a baby. However, the petitioner has given a liberty to approach

this Court after the receipt of DNA report. The petitioner has not approached the Court after the receipt of DNA report. Admittedly, the DNA report

is positive. Now, the learned counsel for the petitioner would contend that he is in custody and only one witness is examined i.e., victim girl and there

are 23 witnesses to be examined. Hence, he may be enlarged on bail.

4. Per contra, the learned High Court Government Pleader appearing for the respondent-State would submit that the victim girl, who has been

examined before the Trial Court is, supported the case of the prosecution. Apart from that, on account of the act of this petitioner, she became

pregnant and gave birth to a child and DNA report is also positive. Merely because he is in custody and there are 23 witnesses to be examined cannot

be a ground to grant the bail.

5. Having heard the respective counsel and this is a successive bail petition, this Court rejected the earlier bail petition on merits, taking into note of the

victim girl was aged about 16 years and she became pregnant and gave birth to a child. Now, the DNA report is also received, the same is positive

and the same has not been disputed. The victim girl is also examined and she has supported the case of the prosecution. When the victim girl has

supported, this Court cannot usurp the jurisdiction under Section 439 of Cr.P.C., and the same has to be appreciated by the Trial Court. This Court

cannot appreciate the same sitting under Section 439 of Cr.P.C. The other ground is that there are 23 witnesses to be examined cannot be a ground

when a heinous offence of sexual act was committed on a minor girl and consequent upon she gave birth to a child and the DNA report is also

positive. Hence, no question of exercising the discretion in the absence of any changed circumstances.

6. In view of the discussions made above, I pass the following:

ORDER

The petition is rejected.