

(2025) 12 KAR CK 0008

Karnataka HC

Case No: Criminal Petition No. 201433 Of 2025 (439(Cr.PC)/483(BNSS))

Shashidhara S/O. Yallappa

APPELLANT

Vs

State Of Karnataka & Ors

RESPONDENT

Date of Decision: Dec. 1, 2025

Acts Referred:

- Bharatiya Nyaya Sanhita, 2023 - Section 64, 74, 109, 115(1), 115(2), 118(1), 126, 126(2), 189(2), 190, 191(1), 191(2), 329(4), 351(2)(3), 352
- Protection Of Children From Sexual Offences Act, 2012 - Section 4
- Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 2015 - Section 3(1)(r), 3(1)(s), 3(1)(w), 3(2)(va)
- Constitution Of India, 1950 - Article 21

Hon'ble Judges: Sachin Shankar Magadum, J

Bench: Single Bench

Advocate: Shivanand V. Pattanshetti, Jamadar Shahabuddin, Pawan S. Karwa, Annaraya M. Patil

Final Decision: Allowed

Judgement

Sachin Shankar Magadum, J

1. The captioned petition is filed by accused No.1 seeking grant of regular bail in Special Case No.5072/2025 arising out of Crime No.75/2025 registered for the offences punishable under Sections 189(2), 191(1), 115(1), 352, 351(2)(3), 64, 74, 126 read with Section 190 of Bharatiya Nyaya Sanhita, 2023 (for shot 'BNS, 2023') and under Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'), pending on the file of III Additional District and Sessions Judge/Special Judge, Raichur sitting at Sindhanur.

2. The gist of the prosecution case is that CW-1, the victim, is aged below 18 years. It is alleged that accused No.1 had been insisting that CW-1 submit to sexual intercourse and, upon her refusal, he forcibly took her to a land on 21.05.2025 and committed rape. It is further alleged that when the parents and relatives of the victim questioned the petitioner, he insulted CW-1 as well as CW-4, CW-6 and CW-7, and also issued threats to the first informant. On the basis of these allegations, a complaint came to be lodged, culminating in registration of the present crime. After

completion of the investigation, the Investigating Officer has filed the charge sheet. The primary allegation against the petitioner is that he committed rape on CW-1.

3. Learned counsel for the petitioner, advertng to the charge sheet materials, submits that the petitioner was arrested on 27.05.2025; he is barely 23 years of age and is in judicial custody. Attention of this Court is also drawn to the long-standing strained relationship between the petitioner's family and the second respondent's family. It is brought on record that the second respondent's family members have themselves been charge-sheeted for offences relating to outraging the modesty of the petitioner's mother, Dymavva, and for assaulting other members of the petitioner's family. They are now facing prosecution for offences punishable under Sections 189(2), 191(2), 191(3), 126(2), 329(4), 74, 115(2), 118(1), 352, 351(2)(3), 109 read with Section 190 of the Bharatiya Nyaya Sanhita, 2023, and under Sections 3(1)(r), 3(1)(s), 3(1)(w) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015.

4. It is contended that the said case is registered in Crime No.73/2025 and is presently pending trial. According to the petitioner, the present case is nothing but a counterblast.

5. Learned counsel further points out that although the alleged incident is said to have taken place on 21.05.2025 at about 1.30 p.m., the victim was examined only on 25.05.2025. Though the complaint was lodged on 24.05.2025, the FIR reached the learned Magistrate only on 26.05.2025. These circumstances, according to the petitioner, clearly indicate that the petitioner, a B.A. student has been falsely implicated by foisting a heinous offence so as to deprive him of the benefit of bail.

6. *Per contra*, the learned High Court Government Pleader appearing for the respondent-State contends that the petitioner has now been charge-sheeted under the provisions of the POCSO Act, and therefore no indulgence is warranted.

7. I have heard the learned counsel on both sides and carefully examined the charge-sheet materials, the medical evidence, and the manner in which the crime was registered, including the dispatch of the FIR to the jurisdictional Magistrate.

8. On close examination of the records, it is seen that the alleged incident of rape is stated to have occurred on 21.05.2025 at around 1.30 p.m., whereas the complaint came to be lodged on 24.05.2025. The FIR, however, reached the learned Magistrate only on 26.05.2025. The records further disclose that the complainant's family members have themselves been charge-sheeted for serious offences including attempt to murder punishable under Section 109 of the BNS, 2023 and other allied offences. The medical evidence does not indicate any signs of forcible sexual assault, and no external injuries are found on the victim, though the alleged incident is said to have taken place in an open land. In these circumstances, and considering that the petitioner, aged about 23 years, has been in judicial custody since 27.05.2025, this Court is of the view that he is entitled to be extended the benefit of bail.

9. Though the petitioner/accused No.1 is charged with the heinous offence of rape on a minor girl aged 17 years, the prosecution is required to establish the guilt of the accused during the course of a full-fledged trial. Now that the charge sheet has been filed, further custodial detention of the petitioner would serve no useful purpose. The apprehension of the prosecution that the petitioner may attempt to influence or threaten the victim can be adequately addressed by imposing stringent conditions. Ensuring the safety of the victim through such conditions would safeguard the prosecution's interest, whereas continued incarceration of the petitioner despite filing of the charge sheet would impinge upon his fundamental right to liberty guaranteed under Article 21 of the Constitution of India. Hence, considering the petitioner's young age of 23 years, this Court is inclined to exercise its discretion in his favour.

10. For the foregoing reasons, the following order is passed:

ORDER

The criminal petition is allowed.

The petitioner/accused No.1 shall be enlarged on bail in Special Case No.5072/2025 arising out of Crime No.75/2025, registered for the offences punishable under Sections 189(2), 191(1), 115(1), 352, 351(2)(3), 64, 74, 126 read with Section 190 of the Bharatiya Nyaya Sanhita, 2023, and under Section 4 of the Protection of Children from Sexual Offences Act, 2012, pending on the file of the III Additional District and Sessions Judge/Special Judge, Raichur, sitting at Sindhanur, subject to the following conditions:

- i) The petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for the like sum to the satisfaction of the jurisdictional Court;
- ii) The petitioner shall not tamper with the prosecution witnesses or evidence, either directly or indirectly;
- iii) The petitioner shall regularly appear before the Trial Court during the course of proceedings, unless exempted for valid reasons by the said Court;
- iv) The petitioner shall not involve himself in any criminal activity, whether of a similar nature or otherwise, in future;
- v) The petitioner shall not leave the jurisdiction of the Trial Court without obtaining prior permission until disposal of the case;
- vi) The petitioner shall not intimidate, threaten, or attempt to influence the victim in any manner during the pendency of the trial.