

**IN THE COURT OF THE V ADDITIONAL DISTRICT AND
SESSIONS AND SPECIAL JUDGE, D.K. MANGALURU,
SITTING AT PUTTUR, D.K.**

Dated: - **This the 7th day of June 2024**

: PRESENT :

SMT. SARITHA D. BAL. L.L.B.,
V Additional District And Sessions Judge,
D.K., Mangaluru, sitting at Puttur D.K.,

:: Special Case No.5054/2023 ::

(Crime No.72/2016 of Uppinagadi Police Station)

**Complainant/
Respondents**

1. The State
By Uppinagadi Police Station.

(Learned Special Public Prosecutor)

- V/S -

Accused

- Sri. Jagadisha,
S/o. Babu,
Aged about 47 years,
R/at. Markalli house,
Matthu village, Sakaleshpura.

(By Sri. A.J.S., Advocate)

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**ORDERS ON BAIL APPLICATION FILED U/S 439 OF Cr.P.C.,
ON BEHALF OF THE ACCUSED**

The accused has filed bail application under Section 439 of Cr.P.C., for his release on bail. He is in judicial custody since 06.09.2023.

2. The grounds made out by the accused :

The accused is contending that, he has strong roots in society and is a respected member of community. The accused lacking legal expertise, misconstrued the granting of bail as the conclusion of the legal proceedings against him. This misunderstanding led him to resume his employment in Bombay to support his family, believing the matter to be resolved. This demonstrates his lack of intent to evade justice but rather a misunderstanding of the legal system. Despite the misunderstanding, the accused has not attempted to evade the legal process deliberately. This demonstrates his willingness to co-operate with the legal proceedings. The attachment warrant issued through the deputy Commissioner, revealed no registered property in the accused's name. This indicates that he has no intention of absconding or evading justice by disposing of assets. The accused is ready to appear before the court when required and he is permanent resident of address shown in cause title. The accused was previously granted bail in the same case, indicating that the court deemed him fit for release pending trial. This precedent suggests that he can be trusted to abide by the conditions of bail and appear before the court as required. The

accused is innocent and he has been falsely implicated in the present case that, he is in Judicial Custody for almost 7 months i.e., from 6-09-2023 till date. There are no other criminal antecedents against him. There is no chance of tampering the prosecution witnesses. That the accused is the only bread earned of his family and if he further detained in the jail for a long time. It will cause great hardship to his family. since 1 year 5 months. The accused is ready to abide by any conditions and offer solvent surety for his release. That the accused is not ex-convict or habitual offender. On these grounds, the accused prays to allow the bail application in the interest of justice.

3. The Learned Special Public Prosecutor has filed objections along with the report of the I.O., by interalia contending that the accused has committed the offences punishable 323, 504, 506 of IPC and Sec.8, 12 of Protection of Children from Sexual Offences Act. The victim girl is a minor at the time of incident. The accused has sexually harassed the victim girl. The offences alleged against the accused are heinous offences. There is a threat to the victim girl and her family members from the accused. There are possibilities of repetition of crime by the accused, in the event of his release on bail. There

are chances of tampering the prosecution evidence by the accused. The accused is the permanent resident of address shown in the cause title, he may abscond in the event of his release on bail. On 5.10.2016 the accused released on bail but he violated the terms and conditions of the earlier bail orders, and he has not attend the court regularly. The reasons stated in the application for non appearance of the accused before this court are not bonfide one but it is intentional. The accused not made out sufficient grounds to grant the bail. On these grounds, the learned Special Public Prosecutor prays to reject the bail application in the interest of justice.

4. Upon the court notice to mother of the victim girl, she has appeared before the court and tendered no objection to allow the bail petition and to grant the bail to the petitioner/accused.

5. I have heard the arguments on both sides and perused the materials on record.

6. From the above facts, following points arise for my consideration.

- 1. Whether the accused has made out sufficient grounds to allow the present bail application?**
- 2. What Order?**

7. My answer to the above points are as under:-

Point No.1 :: In the affirmative

**Point No.2 :: As per final order
for the following:-**

: REASONS :

8. **Point No.1:-** The Uppinagadi Police have charge sheeted the accused and others for the offences punishable U/sec.323, 504, 506 of IPC and Sec.8, 12 of Protection of Children from Sexual Offences Act 2012. On 15-03-2016 FIR has been registered in Crime No.72/2016 of Uppinagadi Police Station, on the basis of complaint lodged by the grand mother of the victim one Smt.Thimmu.

9. This is the second bail application of the accused, the earlier bail application is allowed by this court on 05.10.2016. But the accused violated the terms and conditions of the earlier bail orders, hence this court issued NBW against him, then issued notice to surety. On 23.07.2019 proclamation was issued against the accused and same has been published on 14.08.2019 and an attachment warrant was issued through the Deputy commissioner, Hassan. But failed to secure the presence of the accused before this court, then the prosecution recorded evidence U/sec 299 of Cr.P.C and the case was registered as LPC No

5003/2022. Then Uppinagadi police have arrested and produced the accused to this court on 06.09.2023. This Court after enquiring the accused, he has remanded to judicial custody. Now he is in judicial custody since 06.09.2023.

9. However in the present petition, he is contending that he has strong roots in society. He is the earning member of the family and he is from poor background and is daily wage earner. He is not ex-convict or habitual offender. He will co-operate and regularly appear before the court on all hearing dates without fail. He is giving undertaking before the Court to furnish fresh surety and to abide by any conditions for his release on bail. Since considerable time is required for recording and completing the evidence of other witnesses, hence, I hold that, the accused could be given one more opportunity to mend his ways and be regular before the court on the hearing dates. So far as the violation of earlier bail order is concerned, I am of the view that by imposing penalty and stringent conditions, the apprehension of the State could be met with. Hence, I record my answer to the above point No.1 in the **affirmative**.

10. **Point No.2** :- In the result, I proceed to pass the following:-

: ORDER :

The application filed U/S 439 of Cr.P.C., on behalf of the accused is hereby allowed.

Accordingly the accused is ordered to be released on bail on his executing a personal bond for Rs.1,00,000/- (Rupees one lakh) with One surety for the like sum with following conditions :-

- 1. The petitioner shall not threaten the prosecution witnesses and tamper the evidence directly or indirectly.***
- 2. He shall attend the Court regularly on all hearing dates.***
- 3. He shall not leave the jurisdiction of this court without prior permission of the Court, till the case registered against him is disposed of.***
- 4. He shall not involve in similar type of offences in future.***
- 5. He shall furnish his latest address proof to the Court.***
- 6. He shall produce his passport to the Court.***

7. He shall pay Rs.10,000/- towards penalty for violating the earlier bail orders of this Court.

Violation of above conditions entails cancellation of the bail.

(Dictated to the stenographer on computer, typed by her corrected by me and then pronounced in the open Court, today the 7th day of June 2024)

(Smt. Saritha D.)

V Addl. District and Sessions Judge,
D.K., Mangaluru, sitting at Puttur, D.K.