

KAHS010014722023



**BEFORE THE III ADDL. DISTRICT & SESSIONS COURT AT
HASSAN**

**PRESENT: Sri. Doddegowda K., B.A., LL.B.,
III Addl. District & Sessions Judge,
Hassan.**

Dated the 9th day of June, 2026

SC/79/2023

Accused : Dinesha S/o late Channaiah,
Aged about 34 years,
R/o Bommanakere Village,
Hettur hobli, Sakaleshpura
Taluk, Hassan District

(By Sri. S.P. Anand Advocate)

V/s

Complainant:- State by:
Sakaleshpura Police Station.

(By Public Prosecutor)

**ORDERS ON BAIL APPLICATION FILED BY THE ACCUSED
U/SEC.439 OF Cr.P.C**

This application is under Sec.439 of the Code of Criminal
Procedure filed on behalf of the petitioner/accused in S.C No.

79/2023 of Sakaleshapura P.S. Crime No.56/2022 for grant of regular bail for the reasons stated therein in connection with offence punishable under Section 376, 506 of the Indian Penal Code (IPC), in the interest of justice.

2. The grant of bail is opposed by the learned Public Prosecutor orally and prayed to reject the application.

3. Heard arguments from both sides. Perused the materials placed on record.

4. The points that arise for my consideration are:

1. Whether the petitioner/Accused is entitled for bail as prayed in the application filed under Sec.439 of Cr.P.C.?

2. What order?

5. My answer to the above points are as follows:

*Point No.1: in the **Affirmative**,*

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

::REASONS::

6. Point No.1:- It is the case of the prosecution that on 08-03-2022, at about 2:00 p.m., at Bommanakere Village, Hettur

Hobli, Sakaleshpura Taluk, the accused, under the pretext of dropping C.W.1 near her house, induced her to board his motorcycle bearing Registration No. KA-46-L-4902. However, instead of taking her to her residence, he diverted the vehicle to his house. Upon reaching there, the accused forcibly took C.W.1 inside his house and committed forcible sexual assault upon her. Further, he threatened to murder her if she disclosed the incident to anyone. Based on the complaint filed by the victim, a case was registered in Crime No. 56/2022 for offences punishable under Sections 376 and 506 of the Indian Penal Code. After completion of the investigation, the jurisdictional police filed a charge sheet against the accused. The case was subsequently committed by the jurisdictional Magistrate to this Court for trial.

7. The counsel for the petitioner/Accused while advancing his arguments contends that in the instant case, the respondent police have already filed charge sheet. The accused has not committed any offences as alleged and a false case has been filed against him. The accused is not required for investigation. He is a law-abiding citizen and permanent resident of the address as mentioned in the cause title having his own movable and

immovable properties and he is the sole bread earning member in his family and as such there are no any chances for his absconding. Since the accused has been in prolonged judicial custody, there is a likelihood that he may become physically and mentally weakened. He is not having any criminal antecedents and has not been involved in any criminal offences. He would undertake that he would not threaten or cause undue influence to any of the witnesses. He is having age old parents, wife and children and it would become difficult to nurture them. If at all he is not enlarged on bail, the petitioner may be thrown on to the streets. The family of the accused are doing coolie and leading their life. Due to detention of accused in custody, the family of the accused are facing economic difficulty. Earlier to this the accused was enlarged on bail and since he had been to coolie to other place, due to ignorance of hearing dates, he could not appear before the Court and as such Court has ordered to issue NBW to accused and he is remanded to judicial custody and since the accused is in judicial custody, the instant application is filed. If at all bail is granted to him, he is ready to abide by any conditions imposed by the Court and to appear before the Court on all the

hearing dates and to offer solvent surety to the satisfaction of the Court. Hence, sought to grant bail to the accused.

8. On the contrary, the learned Public Prosecutor has filed objections to the application contending that earlier the accused was enlarged on bail and further the case was committed to this Court for trial and subsequently, court has ordered to issue summons to the accused. Despite service of summons to the petitioner, the accused has not appeared before the Court and as such, this Court has issued NBW as against him and in compliance with the said order, the I.O. has arrested him and produced before the Court and now the accused is in judicial custody. Prima-facie the complaint and FIR clearly depicts about commission of offence and there is evidence available on record to prove the offences alleged against him. If at all he is enlarged on bail, he may destroy the prosecution witnesses and may attract the witnesses towards his side by showing undue influence to them which may be difficult to the prosecution case. The offences alleged against the accused are punishable both with imprisonment and fine. If at all bail is granted to him at this stage, he may threaten the prime witnesses and there are chances

of leading them not to speak truth before the truth. There are also chances of threatening the complainant and their side of witnesses and to commit more heinous offences than the one committed at present. Hence, on these and amongst other grounds sought to dismiss the application.

9. Upon perusing the records, it is revealed that accused was granted bail by the Sessions Court, following a bail application filed on his behalf. However, after the case being committed to this court, summons was issued and the accused did not appear before the court, in spite of service of summons on him. Hence, NBW was ordered to be issued against the accused. It is pertinent here to mention a ruling of the Hon'ble Supreme Court of India in **P. Chidambaram vs Directorate of Enforcement (2020) 13 SCC 791, (2020) 4 Supreme Court Cases (Cri) 646** Wherein the Hon'ble Court has laid down following principles: **"In deciding bail applications, the Courts must consider whether the accused is likely to tamper with the evidence or influence the witnesses. Unless the materials brought before the Court are such that the Courts are persuaded to believe that the accused would be a flight risk or interfere with the course of**

justice, bail should be granted. Personal liberty is a fundamental right and should not be curtailed without adequate and cogent reasons”. As per the records, the accused is suffering from Alcohol Dependence Syndrome and he has been provided high treatment at Bangalore for his mental disorder. The merits of the application has already been considered by this court. In other words, the accused was already enlarged on bail on merits and he was taken to the judicial custody upon NBW issued by this court. The accused has stated in his application that he is ready to abide by any conditions that may be imposed by this court.

10. Upon consideration of the said fact and having kept in mind the principles laid down by the Hon’ble Supreme Court of India and considering the arguments put forth in the bail application and also in view of the fact that the accused has already been enlarged on bail on merits, it is the opinion of this court that Accused has provided grounds for being released on bail subject to reasonable conditions. It is worth noting that the charge sheet has already been filed and presence of accused is required only for the purpose of trial. Consequently, it is neither

just nor necessary to further detain Accused. The apprehension of the learned P.P. that the accused may jump the bail and there is every chance of threatening the prosecution witnesses in general and the informant in particular, could be met by imposing reasonable conditions on the accused. Considering all these aspects, I answer this point is in the **affirmative**.

11. Point No.2:- In view of my findings on Point No.1, I proceed to pass the following:

::O R D E R::

The Application filed U/Sec.439 of Cr.P.C.
by the petitioner/accused is allowed subject to
following:

CONDITIONS

- 1. The Petitioner/Accused shall be enlarged on bail on executing a personal bond of Rs. 1,00,000/- with two sureties for the like sum.*
- 2. The petitioner/Accused shall not threaten or tamper with the prosecution witnesses.*
- 3. The petitioner/Accused shall not leave jurisdiction of the court without written permission.*

4. *The Petitioner/ Accused shall appear before the court on all the date of hearing without fail unless exempted by this court on genuine grounds.*
5. *If the Petitioner/ Accused fails to comply with any of the conditions stipulated herein above, it is open to the prosecution to move the court for cancellation of bail.*

*(Dictated to the Stenographer directly on computer, typed by him, corrected and then pronounced by me in the open court, on this the **9th day of June, 2026**)*

(Doddegowda K.)

III Additional District & Sessions
Judge, Hassan.