

IN THE COURT OF THE LIII ADDL.CITY CIVIL & SESSIONS
JUDGE, BANGALORE

DATED THIS THE 9th DAY OF APRIL, 2019

-: PRESENT :-
SMT.SARASWATI V.KOSANDAR, B.Com.,LL.M,
LIII ADDL.CITY CIVIL & SESSIONS JUDGE,
BANGALORE.

Crl. Misc No. 2829/2019

Petitioner-/
ACCUSED- : Raju, S/o Muthyalappa,
Aged about 40 years,
R/a V S Garden,
Bangalore.

[Rep. by Mr. SM- Advocate]

/ Vs /

RESPONDENT: State of Karnataka by J J Nagar
Police station, Bangalore

[Represented by Public
Prosecutor, Bangalore.]

ORDERS ON BAIL PETITION

This bail petition is filed u/S 439 of Cr.P.C by the petitioner/accused, seeking to release him on bail who is in custody in Crime No.29/2019 of respondent-police for the offences punishable under Sections 354(A), 509 of IPC.

2. In the bail petition it is stated that, the respondent-police have registered a false case against this petitioner. The petitioner is absolutely innocent of the alleged offences

and he has got valid and tenable defence. He has been falsely implicated in the above case at the instance of the complainant. He is a law abiding citizen and has no bad antecedents. He undertakes to abide by any conditions that may be imposed by this court, while considering his bail petition and has accordingly prayed to allow the petition

3. After the receipt of notice of bail petition, the learned Public Prosecutor resisted this bail petition by filing his objections asserting that, there are prima-facie materials available against this petitioner/accused. The accused entered the victim's house and hugged her from behind and hold her hands and and tried to outraged her modesty by holding her hands and closing her mouth. The alleged offences are heinous in nature. If accused/petitioner is released on bail, there is chances of accused tampering prosecution witnesses and also abscond from the jurisdiction of this court and hence, prays for dismissal of this petition in the interest of justice.

4. Heard arguments on both sides. Perused the materials placed before the court.

5. Now the points that arise for my consideration is as under:

- 1) Whether the petitioner/accused has made out grounds for allowing this petition under Section 439 of Cr.P.C?

2) What order?

6. My findings on the above points are as under:-

Point No.1 : In the *Negative*

Point No.2 : As per final orders for the following:

R E A S O N S

7. **Point No.1:** The above bail petition has been filed by the petitioner/accused for his release on bail on the ground that he is innocent of all the allegations leveled against him and has been falsely implicated in the above case by the respondent police.

8. The learned counsel for petitioner argued that, at no point of time the petitioner has committed the offences as alleged by the complainant and it is a fictitious story of the complainant. The alleged offence is said to have taken place on 14.3.2019, but the complaint was lodge on 16.3.2019, i.e., after lapse of two days. It is further submitted that there is no ingredients to attract Sec. 376 of IPC as the victim in her further statement dated 17.3.2019 alleged that the accused attempted to rape her, but she was not raped. It is further submitted that both the petitioner and the husband of victim are drivers working in BBMP, there was a dispute between them with respect t their work and no such incident taken place as alleged by the complainant. The petitioner

hails from a respectable family and has no bad antecedents and he undertakes that he will not tamper the witnesses and will not leave the jurisdiction of this court. He is ready to abide any conditions that may be imposed by this court and accordingly prayed to release him on bail.

9. The learned Public Prosecutor has opposed the bail petition and prayed to reject the same.

10. Perused the papers. On perusal of records, it is seen that this case has been registered against the petitioner based on the complaint lodged by complainant for the offences punishable under Section 354(A) and 509 of IPC and later based on the further statement of complainant/victim, Section 506, 511 & 376 of IPC have been included. According to prosecution, on 14.3.201, at about 11.30 am, when the complainant was alone in kitchen of her house by preparing cooking, accused entered her house and hugged her from behind and asked her to cooperate with him for sex by holding her hands and committed sexual assault on her and somehow she escaped from his clutches and ran out of her house for help and thereafter accused ran away from the house.

11. On perusal of certified copy of complaint, FIR, further statement of complainant and the remand application submitted before 3rd ACMM, Bangalore, shows

that, the accused has been arrested on 17.3.2019 and he is in judicial custody. At this stage, there is no material to accept the contention of the petitioner that a false case has been foisted against him. At this stage, on perusal of the material placed on record, there are serious allegations against the accused for commission of offence on victim. Admittedly investigation is under progress and it is the apprehension of the prosecution that if accused is released on bail, he may trouble the victim and also abscond from the jurisdiction of this court. Considering the gravity of the offence and also the apprehension of prosecution, more particularly the impact of alleged offence on victim, this court opines that it is not a fit case to grant bail. Accordingly, I have answered point No.1 in the *negative*.

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

ORDER

The petition filed by the petitioner/ accused under Section 439 of Cr.P.C in crime No. 29/2019 of respondent-police is hereby dismissed.

(Dictated to the Stenographer, transcript corrected, signed and then pronounced by me in open court on this the 9th day of April, 2019.)

(SARASWATI V.KOSANDAR)
LIII A.C.C.& S. JUDGE, BANGALORE.

09.4.2019

Orders pronounced in the open court
(Vide separate detailed orders)

ORDER

*The petition filed by the petitioner/
accused under Section 439 of Cr.P.C in crime
No. 29/2019 of respondent-police is hereby
dismissed.*

(SARASWATI V.KOSANDAR)
LIII A.C.C.& S. JUDGE,BANGALORE.