

KAUK010004202021



**IN THE COURT OF THE PRL.DISTRICT & SESSIONS JUDGE,
UTTARA KANNADA, KARWAR.**

DATED THIS THE 30th DAY OF APRIL-2024

SESSIONS CASE NO:9/2021

PRESENT: **Sri. D.S.Vijaya Kumar,**
B.Sc., LL.B.,
Prl. District and Sessions Judge,
Uttara Kannada, KARWAR.

COMPLAINANT:
The State of Karnataka,
Kumta police station, Kumta.
Represented by Public Prosecutor.
Uttara Kannada, Karwar.

Vs.

**ACCUSED/
APPLICANT:**
Shridhar S/o Venkatraman Ambig,
Age: 30 years, Occ: Fisherman,
R/o: Math, Dhareswar village,
Kumta Taluk, Uttara Kannada.

(By [Sri. P.B.Tandel](#), Advocate.)

**ORDERS ON APPLICATION UNDER SECTION
439 OF CR.PC., FILED BY THE ACCUSED**

This is an application filed under Section 439 of Cr.P.C., by the accused seeking regular bail in connection with crime No.73/2020 registered by Kumta police station for the offences punishable under Section 376(N) and 506 of [Indian Penal Code](#).

2. The brief averments made in the application are that, the accused has contended that, the accused had been enlarged on bail. The accused is innocent and that he has not committed the alleged offence. In this case as the accused is ill health and untimely demise of his mother, petitioner/accused unable to appear before this Court on last adjourned dates so this Hon'ble court was pleased to issue NBW against him. On the basis of the NBW, the complainant police arrested the accused and produced before this Hon'ble Court. The Hon'ble Court was pleased to remand him to judicial custody. The absence of the accused is not intentional one, but, for the bonafide reasons stated supra. The accused is innocent of the alleged offences leveled against him. The accused is the permanent resident of Kumta taluk. The accused undertakes to abide by the terms and conditions imposed by this Hon'ble Court. The accused undertakes to attend before this Hon'ble Court as and when so directed. The alleged offence against the accused 376(N) and 506 of IPC is non-bailable in nature, but, not punishable with death or imprisonment for life. Hence, prays for grant of regular bail.

3. On the other hand, the learned Public Prosecutor has filed objections to the bail petition. In the objections has stated gist of the complaint and further contended that, the petition filed by the petitioner is not maintainable either in law or on

facts. If the accused is released on bail, there are chances of absconding and further delay the trial of the above matter. If the accused is enlarged on bail, there are also chances of hampering and tampering the prosecution witnesses. The accused person is cruel in nature. The offences committed is an offence punishable under Violation against Women. Hence, prays to reject the bail application.

4. Heard arguments of both sides.

5. In the circumstances, following points arise for determination:-

(1) Whether the applicant/ accused is entitled for an order of regular bail, as sought?

(2) What Order?

6. My findings to the above points are under:

Point No.1: In the Affirmative.

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

REASONS

7. **Point No.1:** I have perused the petition, objections filed by the learned Public Prosecutor and documents available on record.

8. On the basis of the complaint lodged by the complainant a case was registered against the accused persons in Kumta Police station in Crime No.73/2020 for the offences punishable under Section 376(N) and 506 of Indian Penal Code, it is alleging that, she married to one Sri.Pandurang Ambiga and resided with him at Harwada village of Ankola taluk. For about one year her husband left her maternal house at Dharewshar Kumta and ever returned to take back her to his house. Since then she is living in her parental house and eking her life by doing coolie work. Accused is resident of same village and he use to visit her house to speak with her. Her father and brother are fisheries and they use to go for fishing at 4-00a.m, About one year back at about 5-00 a.m., when she was doing household work accused came inside the house and forced her to have sex with him, but she refused for the same, then he forced her by giving life threat to her and had forceful intercourse with her. He continued the same act, on account of it she become pregnant. Thereafter, her sister had taken her Canara Health Care hospital Kumta and doctor examined her and opined that she is pregnant of six months.

9. The accused was already on bail. It is seen the accused has absented on 25/10/2023 and thereafter NBW has been recalled. As per the submission of the court at that time his

mother was not keeping well. After NBW was recalled on 12/02/2024 he has again remained absent with the result of issuing fresh NBW against him. He has been arrested under said NBW and produced before the Court and ever since he is in judicial custody. The accused counsel has produced death certificate of the accused's mother, which shows that actually the accused's mother died on 16/12/2023. It is stated that in view of the same, the accused was unwell and he was not able to appear before the Court. Considering the said fact, I am of view that by imposing appropriate conditions the accused may be granted another opportunity by admitting to bail. Consequently point No.1 is answered in Affirmative.

10. **Point No.2:** On the above findings, I proceed to pass the following:

:ORDER :

The petition filed by the accused under Section 439 of the Cr.P.C. is hereby allowed subject to the following conditions:

- (a) The accused shall be released on bail in Crime No.73/2020 of Kumta police station (SC No.09/2021 on the file of this Court) on his executing personal bond for Rs.1,00,000/- with two sureties for the likesum.
- (b) The accused shall appear before the Court on every hearing date.

- (c) The accused shall not threaten the prosecution witnesses and not hamper the Trial.
- (d) The accused shall not commit similar offences or other offences.

(Dictated to the Stenographer directly on computer, typed by her, revised and corrected by me, signed and then pronounced in the Open Court on this the 30th day of April-2024)

(D.S.Vijaya Kumar)
Prl.District and Sessions Judge,
Uttara Kannada, Karwar.

(MR)