

**BEFORE THE CHILD FRIENDLY COURT,
BENGALURU URBAN DISTRICT.**

Dated this the, 16th day of August, 2019.

Present: SMT.R.SHARADA, B.A.M.L
LIV ADDL., CITY CIVIL & SESSIONS JUDGE, [CCH:55]
SITTING IN CHILD FRIENDLY COURT,
BENGALURU URBAN DISTRICT.

CRIMINAL MISC. NO.7058/2019

**PETITIONER/
ACCUSED NO.3:** Sri. Lakshmi Narayana,
Son of Chikkanna,
Aged about 33 years,
Residing at No.36, 13th 'A' Cross,
Siddappa Garden, Ganapathy Pura,
Bangalore-560 062.

[By Advocate Sri.G.J.Chethan]
-Vs -

RESPONDENT: State of Karnataka by
Mahalakshmipuram Police,
Bangalore City.

(By Learned Public Prosecutor)

ORDERS

This petition is filed by the petitioner under Sec.438 of Cr.P.C with a prayer to grant anticipatory bail in his favour in Cr.No.127/2019 for the offences punishable under Secs. 366(A), 376, 506, 109, 212 r/w Sec.34 of IPC and Secs. 4 and 6 of POCSO Act, 2012, in the interest of justice and equity. The petitioner herein is arrayed as accused No.3 in the Remand application.

2. It is the case of the petitioner that, he is innocent of the alleged offences and he has been falsely implicated in this case. The petitioner apprehends arrest at the hands of the respondent police. The petitioner is an educated person and he does not have any criminal background whatsoever and he has family consisting of parents to take care. The petitioner is working in Human Rights Commission. At the behest of the complainant, the petitioner has been made as an accused in the said case. Thereby, the present application is filed. Further he submitted that, if the petition is allowed, he is ready to furnish solvent surety to the satisfaction of the court and also ready to abide any conditions imposed on him. With all these, he prays to allow the bail application as prayed for.

3. The prosecution has filed objections to the above application stating that, the application is not maintainable either in law or on facts. On perusal of the prosecution papers, it reveals that, accused No.1 has committed aggravated penetrative sexual assault on the victim girl who was aged 17 years as a result of which the victim girl became pregnant and thereafter accused No.1 has left the victim girl in his grandmother's house at Machohalli and went away. The petitioner herein has advised accused No.1 to get married the victim girl and to sent them to another place and when the victim girl attains 18 years, accused No.1 would bring the victim girl. The petitioner herein is shown as absconded. At this stage, if the petitioner is released on bail, he may jump the bail or he may

tamper with the prosecution witnesses which cases hurdles to fair investigation and fair trial of the prosecution case. With these, the learned Public Prosecutor prays to reject the bail application in the interest of justice and equity.

4. Heard the arguments. Perused the records.

5. The Points that arise for my consideration are:

(1) Whether the petitioner/ accused No.3 has made out grounds for grant of bail, as prayed for?

(2) What Order?

6. My findings on the above Points are as under:

Point No.1: In the Affirmative

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

REASONS

7. **POINT NO.1:-** During the course of arguments, the learned counsel for the petitioner submitted that, the petitioner is innocent of the alleged offences and he has been falsely implicated in this case. The petitioner apprehends arrest at the hands of the respondent police. The petitioner is an educated person and he does not have any criminal background whatsoever and he has family consisting of parents to take care. The petitioner is working in Human Rights Commission. At the behest of the complainant, the petitioner has been made as an accused in the said case. The petitioner has not at all associated with accused No.1 at any point of

time. The petitioner has been falsely implicated in this case. The petitioner is apprehending his arrest at the hands of the respondent police on the basis of the complaint lodged by the complainant against him. Further he submitted that, if the petition is allowed, the petitioner is ready to furnish solvent surety to the satisfaction of the court and also ready to abide any conditions imposed on him. With these, the learned counsel for the petitioner prayed to allow the petition in the interest of justice and equity.

8. Per contra, the learned Public Prosecutor has submitted during the course of arguments that, the bail application filed by the petitioner is not maintainable either in law or on facts. On perusal of the prosecution papers, it reveals that, accused No.1 has committed aggravated penetrative sexual assault on the victim girl who was aged 17 years as a result of which the victim girl became pregnant and thereafter accused No.1 has left the victim girl in his grandmother's house at Machohalli and went away. The petitioner herein has advised accused No.1 to get married the victim girl and to sent them to another place and when the victim girl attains 18 years, accused No.1 would bring the victim girl. The petitioner herein is shown as absconded in the Remand Application. At this stage, if the petitioner is enlarged on bail, he may jump the bail, or he may tamper with the prosecution witnesses or he may abscond once again, which causes hurdles to the fair investigation and fair trail of the prosecution case. With these, the learned Public Prosecutor prays to dismiss the bail petition of the petitioner in the interest of justice and equity.

9. I have perused the available prosecution papers i.e, the FIR, complaint, and Remand Application. The allegations against this petitioner/ accused No.3 at this stage prima-facie do not show that this petitioner had indulged or an accomplice in the alleged crime committed by accused No.1, except the petitioner having alleged told accused No.2 that, he can get perform the marriage with the victim girl with accused No.1 which do not call for detaining the petitioner/ accused No.3 in the judicial custody. Even though the investigation is not yet completed, the petitioner cannot be detained in the judicial custody, if it is done so, it amounts to pre-trial conviction. The main allegations are against accused No.1 and this petitioner has nothing to do with the acts committed by the accused No.1 on the victim girl. The petitioner is also apprehending his arrest at the hands of the respondent police, which cannot be brushed-aside. Even the petitioner in his bail application has submitted that, he is working in Human Rights Commission and that he is ready and willing to offer surety for his release on bail and that he is ready to abide by any conditions to be imposed by this court. Under these circumstances, I am of the opinion that, the application filed by the petitioner deserves to be allowed, but with strict and suitable conditions to meet out the apprehension of the prosecution, as stated in the objections. Hence, I answer **Point No.1** in the **Affirmative**.

10. **POINT NO.2:** In view of my findings on Point No.1 above, I proceed to pass the following:

ORDER

The bail petition filed by the petitioner/accused No.3 under Sec.438 of Cr.P.C, is allowed, with the following conditions:

(1) In the event of arrest of the petitioner/accused No.3 by the respondent police, the respondent-Mahalakshmiipuram Police is hereby ordered to release the petitioner on bail, on his executing personal bond for a sum of Rs.50,000/- with one surety for the like sum to the satisfaction of the Investigating Officer

[2] The petitioner/accused No.3 shall appear before this court within one week from the date of this order and he shall execute Personal Bond for a sum of Rs.50,000/- with one surety for the likesum having running title deeds.

[3] The petitioner/accused No.3 shall not threaten any of the prosecution witnesses at any time.

[4] The petitioner/accused No.3 shall be regular in attending the court on all the future hearing dates.

[5] The petitioner/accused No.3 shall appear before the Investigating Officer of Mahalakshmiipuram Police station, whenever he calls to do so.

[6] The petitioner/accused No.3 shall mark his attendance before the Investigating Officer of the respondent police station on every 2nd and 4th Saturday of every English Calendar month in between 10 A.M., to 2 P.M., till further orders and in turn the Investigating Officer shall maintain the Attendance Register of the petitioner/accused No.3 and he shall produce the said Attendance Register before this court every Month.

[7] The petitioner/accused No.3 shall not indulge himself in any criminal activities.

[Dictated to the Stenographer directly on the computer, corrections carried out and then pronounced by me in the open court on this the, **16th day of August, 2019**]

[R.SHARADA]

LIV ADDL., CITY CIVIL & SESSIONS JUDGE, [CCH:55],
SITTING IN CHILD FRIENDLY COURT,
BENGALURU URBAN DISTRICT.

16.8.19

Orders pronounced in open court:
[Vide separate detailed orders]

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[R.SHARADA]
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