



**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH
DATED THIS THE 24TH DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAJESH RAI K
CRIMINAL PETITION NO. 200205 OF 2026
(439(Cr.PC)/483(BNSS))**

BETWEEN:

SRI. BASAVALINGA @ AMBAYYA
S/O YALLAPPA
AGED ABOUT 22 YEARS,
OCC: AUTO DRIVER
R/O SIRWAR, TQ: SIRWAR
DIST: RAICHUR-584115

...PETITIONER

(BY SRI ARUNKUMAR AMARGUNDAPPA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH THE SHO.,
SIRWAR POLICE STATION
REP. BY IT'S ADDL. STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
KALABURAGI BENCH-585102

2. VICTIM MINOR REPRESENTED BY
HER NATURAL FATHER
SRI. MAHIBUB S/O SOFI SAB
AGED ABOUT 48 YEARS
OCC: COOLIE-WORK
R/O WARD NO.20 SIRWAR
DIST: RAICHUR-584123

...RESPONDENTS

(BY SRI VEERANAGOUDA MALIPATIL, HCGP FOR R1;
R2 SERVED)





THIS CRIMINAL PETITION IS FILED U/S. 439 OF CR.P.C (OLD), 483 OF BNSS (NEW), PRAYING TO ALLOW THIS BAIL PETITION AND THEREBY RELEASE THE PETITIONER/ACCUSED ON BAIL IN CRIME NO.87/2025 (SPL.C (POSCO) NO.138/2025) PENDING ON THE FILE OF I ADDL. DISTRICT AND SESSION JUDGE RAICHUR, FOR THE OFFENCES PUNISHABLE U/SECS.137(2), 65(1) OF BNS, 2023 AND SEC.4 AND 6 OF POCSO ACT., REGISTERED BY THE RESPONDENT NO.1 SIRWAR POLICE STATION.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 483 of BNSS, 2023, by the petitioner/accused for grant of bail in Spl.C.(POCSO) No.138/2025, arising out of Crime No.87/2025, registered by Sirwar Police, for the offences punishable under Sections 137(2) and 65(1) of Bharatiya Nyaya Sanhita, 2023 [for brevity, 'the BNS, 2023'] and Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012 [for brevity, 'the POCSO Act'], pending on the file of I-Additional District and Sessions Judge, Raichur.



2. The factual matrix of the case is, respondent No.2 i.e., father of victim lodged a complaint before respondent No.1-Police on 24.07.2025 against unknown persons in Crime No.87/2025 for the offence punishable under Section 137(2) of BNS, 2023, alleging that his daughter (victim) was missing from 06.07.2025 from his house. Subsequently, respondent No.1-Police, during the course of investigation, based on the suspicion expressed by respondent No.2 in the complaint, traced the petitioner and victim together on 15.08.2025 and recorded the statement of the victim on 16.08.2025. In her statement, she revealed that on 06.07.2025 at about 7:40 p.m. she left her house and voluntarily went to Sirwar bus stand, from there to Raichur and from Raichur to Bengaluru in a train and on 07.07.2025 in the morning hour at 7:00 a.m. she reached Bengaluru and from there she went to Doddaballapur i.e., to the place of accused. Thereafter, she and accused/ petitioner stayed together in a room from 09.07.2025 till 15.08.2025. It was further revealed



that, at that time, they both were sexually active. As such, based on her statement, respondent No.1-Police arrested the accused on 18.08.2025 and implicated in the alleged crime invoking Sections 137(2) and 65(1) of BNS, 2023 and Sections 4 and 6 of POCSO Act, by placing him before the learned Special Judge and remanded to judicial custody. Aggrieved by the same, the petitioner preferred bail petition before I-Additional District and Sessions Judge, Raichur for grant of regular bail in Crl.Misc.No.741/2025. The same was dismissed vide order dated 19.12.2025. Against the same, the petitioner/accused preferred this petition.

3. Heard learned counsel for the petitioner and learned HCGP for respondent No.1-state. Though notice is served to respondent No.2, he remained absent.

4. It is contended by the learned counsel for the petitioner that the statement of victim under Section 183 of BNSS, 2023 before the Magistrate clearly reveals that



the victim herself voluntarily went from her house on 06.07.2025 and joined the company of accused on 07.07.2025 at Doddaballapur and thereafter, they both resided together for a period of more than one month. According to him, respondent No.1-Police have not placed any authenticated document to prove the age of victim that she was minor at the time of incident, except the admission register extract. He also contended that the medical certificate issued by the Doctor does not disclose any injuries or forcible sexual act on the victim, by the accused. In such circumstance, he prays to allow the petition.

5. *Per contra*, learned counsel HCGP for respondent No.1-State, by supporting the impugned order, vehemently opposed the bail petition contending that the victim, being a minor, accused taken her by inducing her and made to stay with him for a period of 40 days and had sexual intercourse. In such circumstance, he prays to dismiss the petition.



6. I have given my anxious consideration both on the submission made by the learned counsel for the respective parties and the materials available on record.

7. On careful perusal of the complaint and charge sheet averments, admittedly FIR was registered against unknown person. The victim was traced after lapse of 40 days from the date of missing of victim. The statement of victim recorded on 16.08.2025 reveals that she voluntarily left her house and traveled initially to Raichur, from Raichur to Bengaluru in a train and from Bengaluru to Doddaballapur in a bus and joined the company of accused and thereafter, they resided together for a period of more than one month. Though the prosecution relied on the admission register extract to prove the age of victim that she was minor at the time of incident, the veracity of the same has to be tested in a detailed trial. Admittedly, no authenticated documents are forthcoming in the charge sheet papers to prove the victim's age and the medical opinion also reveals that there are no such forcible sexual



intercourse committed by the accused. In such circumstance, statements of the victim, her parents and the documents relied on by the prosecution has to be tested in a detailed trial. Since the investigation is completed and charge sheet has been laid against the petitioner/accused, his further custodial incarceration is not called for.

8. In such circumstance, without expressing any opinion on the merits of the case, suffice to hold that the petitioner/accused can be enlarged on regular bail.

9. Accordingly, the petition is ***allowed***.

10. The petitioner/accused is directed to be enlarged on bail in Spl.C.(POCSO) No.138/2025, arising out of Crime No.87/2025, registered by Sirwar Police, for the offences punishable under Sections 137(2) and 65(1) of Bharatiya Nyaya Sanhita, 2023, and Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012,



pending on the file of I-Additional District and Sessions Judge, Raichur, subject to the following conditions:

- a) Petitioner shall execute a personal bond for a sum of Rs.1,00,000/- with two sureties for the likesum, to the satisfaction of the jurisdictional Court;
- b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;
- c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;
- d) The petitioner shall not involve in similar offences in future;
- e) The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.
- f) The petitioner shall mark his attendance before the Station House Officer, Sirwar Police Station, on first Sunday of every month



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between 10.00 a.m. and 01.00 p.m. till the
case registered against him is disposed off
before the Trial Court.

Sd/-
(RAJESH RAI K)
JUDGE

SWK
List No.: 1 Sl No.: 15
CT-BH