

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

BEFORE

1. STATE OF KARNATAKA BY
MAGADI POLICE STATION

RAMANAGARA DISTRICT,
REP. BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT COMPLEX,
BENGALURU- 560 001.

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2. HASINA TAJ
W/O MUKTHAR SHARIF
AGED ABOUT 42 YEARS,
PRINCIPAL IN KITUR RANI
CHANNAMMA RESIDENTIAL,
HULIKATTE VILLAGE, MADBAL HOBLI,
MAGADI TALUK,
RAMANAGARA - 562120. ..RESPONDENTS

(BY SRI.VINAYAKA V.S, HCGP FOR R-1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 OF CR.P.C. BY THE ADVOCATE FOR THE PETITIONER PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN CR.NO.49/2020 REGISTERED BY MAGADI POLICE STATION, RAMANAGARA FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 8 AND 12 OF POCSO ACT.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THIS DAY, THE COURT THROUGH VIDEO CONFERENCE AT BENGALURU MADE THE FOLLOWING:

ORDER

This matter is taken up through Video Conference today.

2. Learned counsel Ms.Raksha Keerthana K., for Sri.Kemparaju, for petitioner and [Sri.Vinayaka V.S.](#), learned HCGP for respondent No.1 are present.

3. The petition is filed under [Section 438](#) of Cr.P.C. wherein the petitioner seeks grant of bail in Crime No.49/2020 for the offences punishable under [sections 8](#) and [12](#) of Protection of Children from Sexual Offences Act, 2012 of the respondent No.1 Police Station.

4. Previously, the petitioner had made application before the learned I Additional District and Sessions Judge, Ramanagara, in CrI.Misc.No.204/2020 under [Section 438](#) of Cr.P.C. that came to be rejected on 10.06.2020. Hence, this petition.

5. Copy of the petition is served on learned HCGP for respondent No.1.

6. Heard.

7. Criminal case is registered against the petitioner on the strength of the complaint lodged by Hasina Taj, W/o Mokthar Sharif, Principal in Kittur Rani Channamma Residential, Hullikatte Village, Madbal Hobli, Magadi Taluk, Ramanagara. The incident is stated to have occurred between 01.06.2018 and 26.02.2020.

8. The substance of the complaint as could be seen is that on 11.03.2020 the informant principal of school lodged information against petitioner after finding a letter put in the suggestion box of the school on 26.02.2020. The Deputy Director of Social Welfare Department, Ramanagara visited the school on 10.03.2020 and interacted with the victim and found when she was studying in 9th Standard the accused was misbehaving with the victim girl and used to kiss her and called her over phone by assuring her of getting a silver chain to her and continued the same. Even during the month of December despite refusal the accused misbehaved with her by touching her private parts and caused mental agony and physical pain. The jurisdictional police on the strength of the complaint registered Crime No.49/2020 for the offence punishable under [Sections 8](#) and [12](#) of Protection of Children from Sexual Offences Act, 2012 and apprehending arrest. Hence, the petitioner seeks anticipatory bail. Petitioner claims innocence and would abide by the conditions that may be imposed by this court.

9. Learned counsel for petitioner Ms.Raksha Keerthana would submit that the complaint is filed as a counter blast against the petitioner as the petitioner had lodged a complaint against the principal on 09.03.2020. It is filed belatedly and an after thought. Petitioner is aged 53 years and he never committed any such acts and he is the person highly respecting the legality and morality.

10. Learned HCGP opposes the application and submits considering the facts and circumstances of the case application is liable to be rejected.

11. The case against the petitioner is registered under [Sections 8](#) and [12](#) of the Protection of Children from Sexual Offences Act, 2012 which are as under:

[Section 8](#). Punishment for sexual assault.

Whoever, commits sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.

[Section 12](#). Punishment for sexual harassment.

Whoever, commits sexual harassment upon a child shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

12. In the school where the victim is studying at Hullikatte Village it is the complaint or suggestion box that contained the complaint against petitioner who is stated to be a physical education teacher.

13. The allegation is he misbehaved with the victim, minor girl. It is stated that the petitioner used to kiss her, touch her at inappropriate places, embarrass and principal had interaction with the victim and her parents to ascertain the veracity of the complaint. Further it is also seen that Deputy Director of Social Welfare Department, Ramanagara has also lodged report. The classification of a bailable or non bailable offence, gravity or impact are one side of the matter. Whenever offence against child abuse is made certain defence which are available under general exception under [IPC](#) are not available to many of the offence under this Act. Considering the impact and gravity of offence apart from assessing what offence is committed it is of paramount importance who has committed offence against whom. Here he is stated to be physical education teacher and victim is helpless minor girl.

14. In the circumstances question of delay may not assume serious significance. Considering the continuity of offence, it has gone reasonably for a lengthier period, I do not find the petitioner is entitled for the relief of anticipatory bail.

Application is devoid of merits and the same is rejected.

Petitioner is directed to surrender before the respondent No.1-police in this case.

Sd/-

JUDGE SBN