



CRL.P No. 103215 of 2022

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 9TH DAY OF NOVEMBER, 2022

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANAVAR

CRIMINAL PETITION NO. 103215 OF 2022 (438-)

BETWEEN:

ASHWINI GANAPATI HARIKANTRA
AGE: 24 YEARS, OCC: NURSE (PRIVATE SERVICE)
R/O KIMANI, BARGIGAZANI
BARGI, KUMTA (UK)

...PETITIONER

(BY SRI. PRASHANT S. KADADEVAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
DHARWAD BENCH
IN ANKOLA RURAL POLICE STATION
2. SMT. SAVITA SIDDAYYA SHASHIMATH
AGE: 42 YEARS, OCC: SERVICE,
R/C. CDPO OFFICE, ANKOLA-581314



...RESPONDENTS

(SRI PRASHANTH V. MOGALI, HCGP FOR R1 AND R2)

THIS CRIMINAL PETITION IS FILED U/S 438 OF CR.P.C.,
SEEKING TO ALLOW THE PETITION AND GRANT ANTICIPATORY BAIL
TO THE PETITION WHO IS ACCUSED NO.3 IN ANKOLA P.S. CRIME
NO.187/2022 FOR OFFENCE PUNISHABLE U/S 80 AND 81 OF
JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT,



CRL.P No. 103215 of 2022

2015 AND SECTION 317 R/W 34 OF IPC. THE BAIL APPLICATION FILED BY THE PETITIONER/ACCUSED NO.3 U/S 438 OF CR.P.C., IN CRL.MISC.NO.412/2022, BEFORE THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, UTTARA KANNADA, KARWAR, HAS BEEN REJECTED.

THIS PETITION COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the accused No.3 under Section 438 of Cr.P.C., seeking anticipatory bail in Crime No.187/2022 of Ankola Police Station, registered for the offences punishable under Sections 80 and 81 of Juvenile Justice (Care and Protection of Children) Act, 2015 and Section 317 read with Section 34 of IPC.

2. The case of the prosecution is that, CDPO, Ankola has filed complaint stating that on 05.09.2022, accused No.1 has given birth to a girl child at Civil Hospital, Karwar and she was suffering from financial problems and she was in need of financial help. She discussed her problem with the petitioner/accused No.3 who is working as a Nurse in the said hospital and conveyed to her that due to poverty she cannot look after her child and also told that, if anyone is ready to look after



CRL.P No. 103215 of 2022

her child, for money she is willing to give her child. On 12.09.2022, the accused No.1 got discharged from the Hospital. On 15.09.2022 at near Jai Hind ground, at Ankola, accused No.1 given her child to accused No.2 and took Rs.1,00,000/- by cash and Rs.70,000/- by cheque. After that, from 15.09.2022 to 20.09.2022, the accused No.1 requested this petitioner/accused No.3 to get back her child. When accused No.1 could not get back her child, she contacted the complainant. The said complaint came to be registered in Crime No.187/2022 of Ankola police station for the aforesaid offences. This petitioner is arrayed as accused No.3 and apprehending her arrest she has filed Criminal Misc. No.412/2022, seeking anticipatory bail and the same came to be rejected by the Principal District and Sessions Judge, Uttara Kannada, Karwar by order dated 14.10.2022. Therefore, the petitioner is before this Court seeking anticipatory bail.

3. Heard the arguments of the learned counsel for the petitioner and the learned HCGP for the respondent-State.



CRL.P No. 103215 of 2022

4. Learned counsel for the petitioner would contend that, there is no allegation of this petitioner/accused No.3 of mediating between accused Nos.1 and 2 for purchase and sale of the child of accused No.1. It is his further submission that, the offence alleged against this petitioner are not punishable with death or imprisonment for life. The petitioner is ready to co-operate with the police in the investigation. With this, he prayed to allow the petition.

5. Per contra, learned HCGP would contend that, the investigation is in progress. On going through the averments of the complaint, one can make out that, this petitioner has acted as mediator between the accused Nos.1 and 2 for the sale of new born baby-girl of accused No.1 to accused No.2. The petitioner being the Nurse in the Government Hospital, has misused her position and committed the alleged offences. The petitioner is required for custodial interrogation. If the petitioner is granted bail, there are chances of she hamper the investigation and



CRL.P No. 103215 of 2022

tampering the prosecution witnesses. With this, he prayed to reject the petition.

6. Having regard to the submissions made by the learned counsel for the petitioner and the learned HCGP, this Court has gone through the averments of the complaint, FIR and the order passed by the Sessions Court.

7. The petitioner/accused No.3 is working as Nurse in the Civil Hospital, Karwar. The accused No.1 who was admitted in the civil hospital for delivery, gave birth to a female child on 05.09.2022. The accused No.1 who was in financial crisis, told this petitioner/accused No.3 who is working as a Nurse in the said hospital that she is ready to give her child to anyone who can foster the child for consideration. Subsequently, the accused No.1 came to be discharged from the hospital on 12.09.2022. It is alleged that, on 15.09.2022, accused No.1 gave the child to the accused No.2 for consideration of cash of Rs.1,00,000/- and cheque of Rs.70,000/-. Subsequently, the accused



CRL.P No. 103215 of 2022

No.1 wanted the child back and insisted this petitioner/accused No.3 to get back the child. When she failed to get back the child, she went and met the complainant and intimated the same. The complainant filed the complaint in that regard. In the entire averments of the complaint, there is no specific averment against this petitioner that she mediated between accused No.1 and 2 for sale of the new born baby girl of the accused No.1 to the accused No.2. The said aspect can be ascertained after completing the investigation and filing of the charge-sheet. The offence alleged against this petitioner are not punishable with death or imprisonment for life. The petitioner is ready to co-operate with the police in the investigation. The petitioner is a woman. There are no criminal antecedents of this petitioner. The main apprehension of the prosecution is that, if the petitioner is granted bail, she will hamper the investigation and tamper the prosecution witnesses. The said objection can be met with by imposing stringent conditions.



CRL.P No. 103215 of 2022

8. In the facts and circumstances of the case and submission of the counsel, this Court is of the view that there are valid grounds for granting anticipatory bail subject to certain terms and conditions. Hence, I proceed to pass the following:

ORDER

The petition filed under Section 438 of Cr.P.C. is allowed. Consequently, the petitioner/accused No.3 is ordered to be released on bail in the event of his arrest in Crime No.187/2022 of Ankola Police Station, subject to the following conditions:

- i. The petitioner/accused No.3 shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with one surety for the likesum to the satisfaction of the Investigating Officer.
- ii. The petitioner/accused No.3 shall voluntarily appear before the Investigating Officer within fifteen days from this day and execute bail bond and furnish surety.



CRL.P No. 103215 of 2022

- iii. The petitioner/accused No.3 shall co-operate with the police in the investigation and make herself available for interrogation, whenever required.
- iv. The petitioner/accused No.3 shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
- v. The petitioner/accused No.3 shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

**Sd/-
JUDGE**