



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF MAY, 2023

BEFORE

THE HON'BLE MR JUSTICE UMESH M ADIGA

CRIMINAL PETITION NO. 3560 OF 2023

BETWEEN:

FOR THE DISTRICT ...

...PETITIONER

(BY SRI. A N RADHA KRISHNA., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY EADAVANAHALLI POLICE,
MADHUGIRI TALUK
REP BY THE STATE PUBLIC PROSECUTOR
HIGH COURT BUILDINGS
BANGALORE - 560001

...RESPONDENTS

(BY SRI. MAHESH SHETTY., HCGP)



THIS CRL.P FILED U/S 439 CR.PC PRAYING TO ENLARGE THE PETITIONER/S ON BAIL IN THE CR.NO.36/2023 REGISTERED IN BADAVANAHALLI POLICE STATION, TUMKUR DISTRICT, FOR THE OFFENCE P/U/S 8 AND 12 OF POCSO ACT, PENDING ON THE FILE OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, TUMKUR (FTSC-I), TUMKUR. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE (FTSC-I), TUMAKURU, HAS REJECTED THE BAIL PETITION ON 13-04-2023 IN CRL.MISC.NO.398/2023.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 9.05.2023 AND COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. This petition is filed under Section 439 of Cr.P.C., for grant of bail to the petitioner in Cr.No.36/2023 of Badavanahalli Police station registered for the offences punishable under Sections 8 and 12 of POCSO Act.
2. Brief facts of case of prosecution as narrated in the complaint are that, the petitioner has been working as a Assistant Teacher in the Government Primary School, Boragunte village for about 6 to 7 years prior to the incident and he has been sexually harassing the minor girl students, who are studying in IV to VI standard in the



same school. On 27.03.2023, some of the villagers informed BEO of Madhugiri i.e. one Mr.Thimmaraju, about the illegal acts of accused petitioner. After receipt of the said information, complainant -BEO along with CDPO Smt. Anita visited the said school, wherein accused has been serving as a Assistant Teacher. In the presence of CDPO some of the girl students, who were studying in IV and V standard have stated that accused used to touch their private part of the body and talking to them in an obscene manner so also in inappropriate manner and the said girl students were also asked to touch his private part of the body and he use to remove his dress as well as dress of the said girl students, who were studying in IV and V standard. Thereafter, the BEO has lodged written complaint to Badavanahalli police station and on that basis the Badavanahalli police registered a case in Cr.No.36/2023 for the offences punishable under Sections 8 & 12 of POCSO Act.



3. The matter has been investigated by Sub-Inspector of police of Badavanhalli police station. Investigating Officer has recorded the statement of witnesses and the victims were produced before the Senior Civil Judge, and JMFC, Madhugiri and their statements were recorded under Section 164 of Cr.P.C. The Investigating officer has also recorded the statement of the victim as well as their guardians. He has collected the records pertaining to admission of the victims in the said school and also that they have been studying in the said school. and on completion of the investigation, has submitted a charge sheet before Special Court i.e., I Additional District and Sessions Judge, FTSC -1 Tumakuru.

4. The accused was arrested by the police on 27.03.2023 and he was produced before the FTSC -I, Tumkuru and thereafter he has been in judicial custody and he has been in custody.

5. The petitioner has filed bail application before FTSC - I, Tumkuru in CrI.Misc.No.398/2023. The learned Session



judge by order dated 13.04.2023 has rejected the bail application. Thereafter the petitioner has filed the present petition for grant of bail on the grounds stated in the petition.

6. The learned High Court Government Pleader has not filed any objections in writing or not produced any records pertaining to this case.

7. I have heard the arguments of learned counsel for the petitioner as well as learned High Court Government Pleader.

8. Following points emerges for my determination:

i. Whether petitioner is entitled for bail.

9. The learned counsel for the petitioner vehemently contended that petitioner has been falsely implicated in this case. There is no sufficient materials to believe that he has committed alleged offences. He has been serving in the said school for last about 6 to 7 years prior to the



registering of the case and at no point of time there was any complaint against him. It clearly indicates that he is falsely implicated in the case. One of the said villager has kept petty shop in the school premises. He objected for the same and insisted to remove it. The villagers have discussed and deliberated and thereafter filed a false case against him. The villagers have tutored their minor children and falsely given the statement before the police as well as the court, contending that accused has sexually harassed them. The alleged offences are not heinous in nature and not punishable with death or imprisonment for life. He is permanent resident of the address given in the cause title and he is a government servant, therefore chances of absconding from the jurisdiction or tampering of the prosecution witnesses is not probable. With these reasons prayed to grant the bail and he has also submitted that the accused is ready to abide by any conditions that may be imposed by this Court.



10. The learned HCGP has vehemently contented that it is not a fit case to grant a bail. Petitioner has committed heinous offence and it is not against one or two girl child but several girl child and he use to threaten them of dire consequences to them as well as their guardian/parents. Therefore, they were not ready to file any complaint against the petitioner. The minor students, who were with all the difficulties attending the school, might not think of filing the complaint against a teacher, who was teaching them in the said school and they were under his mercy. Therefore, previously there was no complaint or no complaint was filed against him, cannot be a ground to hold that it was a false case filed against him. Petitioner has not produced any materials to show that a person illegally kept petty shop in the school premises. If at all the said contention is true he ought to have complained the same to the concerned BEO or his superior officers and requested them to take action against the concerned trespassers. Moreover the victims are not related to the said petty shop owners and it is difficult to believe that for



the sake of owner of a petty shop, especially the villagers may not think of filing a false complaint involving honour and right of their minor girl child, about sexual harassment. Therefore the contention of the petitioner is nothing but a cock and bull story and not reliable. There are sufficient materials on record even the statement of the victims recorded by the learned Magistrate clearly indicates the sexual harassment committed by the petitioner. They have also stated that they were not only the victims but even the previous students, who studied in the same school with the same teacher, had suffered by the sexual harassment. Therefore it is not a fit case to grant a bail and with these reasons prayed to reject the application.

11. Brief facts of the case of prosecution has been stated in the above paragraphs. Admittedly, petitioner has been serving as a Assistant Teacher in the Boragunte village and it is also not in dispute that the girl students were also studying in the said school and it is a co-education school.



The victims who were minor girls aged between 8 to 11 years have consistently stated before the police as well as the learned Magistrate that accused was sexually harassing them. He use to remove his clothes as well as the clothes of the said minor children and in appropriately touches private part of their body and he was insisting the said minor girls to touch private part of his body and he use to threaten them with dire consequences that if they complain about this fact or inform this fact to their parents/guardian. These facts prima facia shows involvement of the petitioner in the alleged offences. There was no reason for the said minor girls to give false statement against the petitioner, only because there was alleged dispute between petitioner as well as one of the petty shop owner, who is said to have kept petty shop in the school premises.

12. Submission of learned High Court Government pleader is acceptable.



13. The alleged offences are heinous in nature. Mercilessly, without thinking his status and position in the society, he has sexually harassed students who were studying in IV and V classes. Guru or teacher are considered as God in this Country and respected like a God. However because of alleged behaviour of the petitioner, even the parents think twice about sending of their girl child to the school. It may spoil name, fame and future of the said girl students. It is not a crime against the individual but crime against a society. Due to the alleged threat of the petitioner to spoil the career of the students, so also they were said to be threatened, the students to file a complaint against him and that cannot be a ground for holding that there is a delay in lodging a complaint and on that ground he is not entitled for bail.

14. The learned FTSC-I, Tumakuru in Crl.Misc.No.398/2023 dated 13.04.2023 has elaborately discussed these subject as well as the point of law involved in this case and rejected the bail application.



Looking to the facts and circumstances of the present case, the petitioner does not deserve to be released on bail. Therefore I answer the point in negative and pass the following:

ORDER

Petition filed under Section 439 of Cr.P.C., for grant of bail in Cr.No.36/2023 of Badavanahalli Police station, Tumakuru, registered for the offences punishable under Sections 8 and 12 of PCCSO Act is ***rejected.***

**Sd/-
JUDGE**

AG
List No.: 3 Sl No : 4