

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 02ND DAY OF JANUARY 2013

BEFORE

THE HON'BLE MR. JUSTICE K.N.KESHAVANARAYANA

CRIMINAL PETITION NO:7155/2012

BETWEEN:

H.L.MARUTHI REDDY,
AGED ABOUT 35 YEARS,
S/O.LAKSHMANA REDDY,
R/A.ALAGANAHALLI VILLAGE,
GOWRIBIDANUR TALUK,
CHIKKABALLAPURA DISTRICT
PIN- 562 108. ... PETITIONER

(BY SRI.ARAVIND REDDY.H.ADVOCATE)

AND:

STATE BY
RURAL POLICE,
CHIKKABALLAPURA TALUK,
CHIKKABALLAPURA- 562 102 ... RESPONDENT

(BY SRI.B.RAJASUBRAMANYA BHAT, HCGP)

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THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 OF CR.P.C.PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN CRIME NO.68/2011 OF CHIKKABALLAPURA RURAL P.S., CHIKKABALLAPURA, WHICH IS REGISTERED FOR THE OFFENCE PUNISHABLE UNDER SECTION

376, 342 R/W SEC 34 OF IPC AND SECTION 9, 16, 17, 18 OF BONDED LABOUR SYSTEM ABOLOTION ACT.

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

ORDER

Apprehending his arrest by Chikkaballapur Rural police in connection with the case registered in CC No.178/2012 pending on the file of J.M.F.C. Chikkaballapur for the offences punishable under Section 376 and 342 r/w Sec 34 IPC, the petitioner arraigned as accused No.2 has presented this petition under Section 438 Cr.P.C. seeking relief of anticipatory bail.

2. The allegation made against this petitioner is that, he along with accused No.1, committed rape on CW.2 in the night of 20.02.2011 and again on 24.02.2011 after forcibly taking her from the room where she was staying. According to the case of the prosecution, the victim and her husband CW.1-Chabbi Bhai hailing from Orissa State came down to

Chikkaballapur in search of work and they started working in the brick kiln of Accused No.1-Venkatesh situated in Arasanahalli, Chikkaballapur Taluk and they worked in the said factory from 2009. It appears that, CW.1 had received an advance of Rs.30,000/- from Accused No.1, for that CW.1 and CW.2 were made to work in the brick kiln of accused No.1 as bonded labourers.

3. Sometime during December 2010, few of other workers in brick kiln of accused No.1 hailing from Orissa State left the place and went away without intimating the owner. Therefore, CW.1 was sent to Orissa to bring back the escaped labourers. At that time, CW.2 was detained in the room provided for their stay by Accused No.1. CW.1 after going to Orissa went on for searching the escaped labourers. In the mean while, on 20.02.2011, while CW.2 was inside the room, accused No.1 and this petitioner said to have taken her in an auto-rickshaw to a nearby grove where they committed rape one after another. This was intimated

by CW.1 to her husband over phone on 21.02.2011. Again on 24.02.2011, this petitioner and accused No.1 said to have repeated the act of rape and this was again informed by CW.2 to her husband CW.1 on 25.02.2011.

4. It appears that, CW.1 moved the Labour Officer of Balangir District of Orissa, who passed an order on 28.02.2011 requesting the Assistant Commissioner of Chikkaballapura, Karnataka to take necessary steps to trace CW.2 and ensure her safe release from the clutches of brick kiln owner-Accused No.1 and to repatriate her to her native village in Orissa. Immediately, Assistant Commissioner of Chikkaballapura along with other officials visited the brick kiln of accused No.1 and rescued CW.2 and her statement was recorded. Thereafter, she was repatriated back to her native village in Orissa. In the meanwhile, CW.1 had lodged a complaint before the respondent-police, based on which, case came to be registered and investigation had been taken up. On further report of the Assistant Commissioner, the offences punishable

under Section 9, 16, 17, 18 of Bonded Labour System (Abolition) Act, 1976 was added. On coming to know that during investigation, the statement of CW.2 was recorded which prima-facie revealed that, she was subjected to rape by accused No.1 and owner of Gowribidanur brick kiln namely the petitioner herein. Therefore, this petitioner was arraigned as accused No.2. On coming to know of this, the petitioner has approached the Sessions Court under Section 438 of Cr.P.C., seeking relief of anticipatory bail and the said petition came to be rejected. Therefore, the petitioner is before this Court.

5. The petition is opposed by the Respondent – State.

6. I have heard the learned counsel appearing on both sides and perused the materials available on record.

7. The learned counsel for the petitioner by producing the copy of the order passed by Adhoc

Sessions Judge and Fast Track Court-1 Chikkaballapur in C.Misc.752/2011 contends that, since accused No.1 has been granted relief of anticipatory bail, this petitioner is also entitled for the said relief on the principles of parity.

8. I have perused the order passed by the learned Sessions Judge in the said petition. Nodoubt, accused No.1 has been granted relief of anticipatory bail by the learned Sessions Judge. The reasons assigned by the learned Sessions Judge while granting relief of anticipatory bail cannot be accepted for grant of similar relief to this petitioner by extending the principles of parity. In the said order, there is absolutely no reference made to the statement of victim-CW.2 .

9. Perusal of the statement of victim-CW.2 prima-facie indicates the complexity of this petitioner in the commission of the offences. The Investigating Officer on completion of investigation has now filed the charge

sheet against this petitioner and another for the aforesaid offences.

10. Regard being had to the nature and gravity of offences, as well as the punishment prescribed for the same and the manner in which the offences is committed, I am of the considered opinion that the petitioner is not entitled for relief of anticipatory bail.

11. Accordingly, the petition is rejected.

**Sd/-
JUDGE**

KSR