

KABC010118752024



**IN THE COURT OF LXXXI ADD. CITY CIVIL AND
SESSIONS JUDGE, BENGALURU (CCH-82)**

Present:

**Sri Santhosh Gajanan Bhat, B.A.Law., LL.B.,
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)**
(Special Court exclusively to deal with criminal cases
related to elected former and sitting MPs/ MLAs
in the State of Karnataka)

Dated this the 4th day of May, 2024

Crl.Misc.No.4138 / 2024

PETITIONERS: Sri Revanna H.D. s/o H.D.Devegowda
Aged about 66 years
r/o Chennambika Nilaya
Chennambika Circle
Holenarasipura
Hassan-573 211

(Sri Murthy D.Naik, Learned Senior
Counsel on behalf of Sri Pavan Sagar,
Advocate for Petitioner)

V/s

RESPONDENTS: State of Karnataka by K.R.Nagara
Police Station, Mysuru Rural Sub-
Division, Mysuru District

(Sri B.N.Jagadish, Learned Special Public
Prosecutor)

**ORDER ON APPLICATION FILED FOR INTERIM
BAIL UNDER SEC.438 THE CODE OF CRIMINAL
PROCEDURE**

This application for interim bail has been filed U/s.438(1-A) of the Code of Criminal Procedure by the petitioner who has been arraigned as accused No.1 in Cr.No.149/2024 on the file of learned Prl. Civil Judge and JMFC, K.R.Nagar, Mysuru District (Now before the learned XLII ACMM, Bengaluru) for the offences punishable under Sec.364(A), 365, r/w sec.34 of the Indian Penal Code ('IPC' for short).

2. The brief facts leading to the case are that a written information came to be filed before the K.R.Nagara Police Station on 2.5.2024 at about 9.00 p.m. in the night by the complainant stating that his mother was working in the house of accused No.1 for about six years and of late she had left the said job and was working as a daily wage labourer in their village. It is stated that about 3 to 4 days prior to Parliament Elections, accused No.2 Satish Babanna who was known to them had come to their house and had requested his mother to accompany him and later on she had returned back on the date of election to the parliament seat. It is also narrated that on 29.04.2024 at about 9.00 p.m. once again Accused No2 Satish Babanna had come to their house and had requested her to accompany him as directed by accused

No.1 H.D.Revanna, since a case was lodged against her. However, she had not returned back and on the next day the complainant's friend had brought to his notice about the viral video that was circulated pertaining to the sexual assault on his mother and when he had requested accused No.2 Satish Babanna to send his mother back, he had declined to do so and apprehending about her safety and well being, he had lodged complaint on 2.5.2024. Based on the same, a FIR came to be registered.

3. Being aggrieved by the same, and apprehending arrest and ill-treatment at the hands of the Investigating Agency, wherein the investigation was transferred to SIT, CID, Bengaluru, the present interim bail application has been filed by accused No.1 / Petitioner on various grounds.

4. It has been contended by the petitioner that he is innocent and law abiding citizen and a attempt has been made to falsely implicate him. It is also been submitted that the averments in the complaint do not even remotely connect the petitioner to the allegations of trial and the reading of the complaint would clearly indicate that the same has been filed with an oblique motive by his political rivals to tarnish his reputation in the society.

5. It is also been submitted that there are no allegations in the complaint to directly connect the petitioner

in the above case and also the invocation of section 364-A of IPC is due to political turmoil and he has been falsely implicated. It is also submitted that the petitioner is the prominent leader in his constituency and has set up campaigning programme where his son was candidate for the ensuing Lokasabha Elections 2024 and in order to hamper his prospects, a false allegations were leveled against his son and now the petitioner is being roped in to settle the political scores. It is also submitted that the petitioner is a respectable person in the society, who was even Ex-Minister and as such the aforesaid complaint was filed only to tarnish his political image. Further, the petitioner has also contended in his petition that he was ready and willing to abide by any of the conditions that may be imposed by this court and has prayed to admit him to interim bail.

6. On request the learned Spl. Public Prosecutor, Sri B.N.Jagadish has put in his appearance and has filed preliminary objections to the interim bail application. In the statement of objections, it has been narrated that the case which has been registered against the petitioner herein is not a false case, but the above case is having nexus with the sexual assault and crime committed by his son Prajwal Revanna who had reportedly video recorded the obscene acts and had used for repeated sexual exploitation. It is also submitted that the case registered in Cr.No.149/2024 is an example that the

petitioner and others will go to any extent and resort to any means to manipulate the legal system and tamper with investigation. It is also been submitted that the victim of the said offence was kidnapped by accused No.2 under the directions of accused No.1 i.e., the petitioner herein and the Investigating Officers are yet to trace the victim and to record the statement of various witnesses in connection with the case. Hence, he has sought for rejecting the bail application.

7. The learned Senior Counsel Sri Murthy D.Naik, appearing on behalf of the learned counsel for petitioner has taken this court through the entire allegations leveled against the petitioner herein. Firstly, it is his submission that the invocation of provision of Sec.364-A itself mutually destructive to the provisions of Sec.365 of IPC and at best the provision of Sec.363 of IPC could have been invoked. He has also argued that the manner in which the above case was filed is required to be looked in to from the point of view of earlier complaint which was registered before the Holenarasipura Police station in Cr.No.107/2024 in which the offences were all bailable in nature and on 2.5.2024 the bail application was filed and on the very same day, the aforesaid complaint came to be filed as counter blast. It is his submission that no overtact was pointed out against the petitioner therein nor there was any whisper of his active role. The learned Senior Counsel has also vehemently argued that the judgment of the

Hon'ble Apex Court reported in **(1980) 2 SCC 565 (Gurubaksh Singh Sibbia and others Vs. State of Punjab)** which was again reiterated by the Hon'ble Apex Court through its Constitutional Bench in the judgment reported in **(2020) 5 SCC 1 (Susheela Aggarwal and others Vs. State (NCT of Delhi) and another)**. Further, in order to buttress his submission he has relied upon the judgment of the Hon'ble Apex Court reported in **(2023) 6 SCC 76 (Ravi Dhingra Vs. State of Haryana)** and has argued that the petitioner may be admitted to the interim bail.

8. Per contra, the learned SPP has vehemently argued that there is no force in the submission made by the learned Senior Counsel and he has also referred to the authority relied upon by the learned Senior Counsel in **Ravi Dhingra Vs. State of Haryana** and has distinguished the provisions of law. It has been vehemently argued that the first priority of the Investigating Agency was to secure the life and liberty of the victim as enshrined under Article 21 of the Constitution of India. He has further argued that the victim is yet to traced and the FIR cannot be looked into in isolation with the factual aspects. In order to buttress his submission he has relied upon the authority of the Hon'ble Patna High Court reported in **(2007) SCC Online Pat 103 (Harendra Rai Vs. State of Bihar and others)**. By relying upon the same he has adverted to the statement made in para-2 of the memo filed on

behalf of the petitioner today, wherein it has been stated that the petitioner is required to take care of his aged parents. However, the requisition filed by the petitioner before the Investigating Agency was entirely on different aspects. By pointing out the same, the learned SPP has sought for rejecting the interim bail application.

9. Heard and perused the records. The points that arise for my consideration are as follows:-

(1) Whether the petitioner has made out grounds for grant of interim bail in his favour?

(2) What order?

10. My answer to the above points are as follows:-

Point No.1 : In the Negative

Point No.2 : As per final order for the following:

REASONS

11. **Point No.1:-** Before adumbrating to the facts of the case, it is pertinent to note that the FIR came to be registered on 2.5.2024 at about 9.00 p.m. The main allegations which has been leveled is that the complainant's

mother who was working as maid in the house of petitioner for many years and of late, she had left the job. The above case is required to be appreciated in the back drop of the allegations which has been leveled against the petitioner. The complaint itself indicates that some of his friends had reportedly stated to the complainant that his mother who is also the victim, was subjected to sexual assault and even the same was circulated through viral videos. It is also relevant to note that the victim was allegedly taken out from her house by accused No.2 Satish Babanna, who has been arrested and remanded to custody. However, the whereabouts of the victim is yet to be traced.

12. The court has also taken into account the allegations which has been leveled against the petitioner and also the submission at Bar. The contentions of the learned Senior Counsel with respect to invoking the provision of Sec.364-A of IPC is required to be appreciated.

13. In order to better appreciate the same the provision of Sec.364-A of IPC, the authority which he has relied in **Ravi Dhingra Case** mentioned supra is required to be looked into. In the aforesaid judgment, the Hon'ble Apex Court has succinctly discussed about different facets of the provisions of Sec.364-A of IPC. For the sake of convenience the relevant paragraph is herewith extracted, which reads as follows: _

"13. We have noticed that after the first condition the second condition is joined by conjunction “and”, thus, whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction and threatens to cause death or hurt to such person.

14. The use of conjunction “and” has its purpose and object. [Section 364-A](#) uses the word “or” nine times and the whole section contains only one conjunction “and”, which joins the first and second condition. Thus, for covering an offence under [Section 364-A](#), apart from fulfilment of first condition, the second condition i.e. “and threatens to cause death or hurt to such person” also needs to be proved in case the case is not covered by subsequent clauses joined by “or”.

15. The word “and” is used as conjunction. The use of word “or” is clearly distinctive. Both the words have been used for different purpose and object. Crawford on Interpretation of Law while dealing with the subject “disjunctive” and “conjunctive” words with regard to criminal statute made following statement:

“... The court should be extremely reluctant in a criminal statute to substitute disjunctive words for conjunctive words, and vice versa, if such action adversely affects the accused.” xxx

33. After noticing the statutory provision of [Section 364-A](#) and the law laid down by this Court in the above noted cases, we conclude that the essential ingredients to convict an accused under [Section 364-A](#) which are required to be proved by the prosecution are as follows:

(i) Kidnapping or abduction of any person or keeping a person in detention after such kidnapping or abduction; and

(ii) threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt or;

(iii) causes hurt or death to such person in order to compel the Government or any foreign State or any Governmental organisation or any other person to do or abstain from doing any act or to pay a ransom.

Thus, after establishing first condition, one more condition has to be fulfilled since after first condition, word used is “and”. Thus, in addition to first condition either Condition (ii) or (iii) has to be proved, failing which conviction under [Section 364- A](#) cannot be sustained.” Thus, this Court in SK Ahmed set aside the conviction under [Section 364A](#) of the IPC and modified the same to conviction under [Section 363](#),

for the reason that the additional conditions were not met by observing as follows:

“42. The second condition having not been proved to be established, we find substance in the submission of the learned counsel for the appellant that conviction of the appellant is unsustainable under [Section 364-A](#) IPC. We, thus, set aside the conviction of the appellant under [Section 364-A](#). However, from the evidence on record regarding kidnapping, it is proved that the accused had kidnapped the victim for ransom, demand of ransom was also proved. Even though offence under [Section 364-A](#) has not been proved beyond reasonable doubt but the offence of kidnapping has been fully established to which effect the learned Sessions Judge has recorded a categorical finding in paras 19 and 20. The offence of kidnapping having been proved, the appellant deserves to be convicted under [Section 363](#). [Section 363](#) provides for punishment which is imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.”

14. In the aforesaid authority, the Hon'ble Apex Court has clearly held that in order to attract the rigors of Sec.364-A the essential ingredients which is required to be proved by the prosecution is -

a) kidnapping or abduction of any person or keeping him under detention

b) threatens to cause death or hurt to such person

c) causes hurt or death to such person in order to compel the government or any foreign state or any governmental organisation or any other person to do or to abstain from doing any act or to pay a ransom.

15. By pointing out the said aspects, the Hon'ble Apex Court has specifically held that after establishing the first condition, one more condition is required to be established and the word which has been used is "and". With respect to using of the said word the same is to be used as conjunction and the Hon'ble Apex Court has held that in addition to first condition either condition No.(ii) or (iii) which is narrated as condition No.(b) and (c) herein, is to be proved. When the said postulate is applied to the case on hand, it indicates that the complainant's mother who is also the victim is yet to be traced and at this juncture, it would not be appropriate to discuss about invocation about Sec.364-A of IPC, since the court is only considering the interim bail application. I have also bestowed by anxious reading to the Constitutional Bench judgment of the Hon'be Apex Court relied upon the learned Senior Counsel. There could be no

qualms raised with respect to the proposition laid down by the Hon'ble Apex Court. However, at the same instance, it is to be borne in mind that granting of anticipatory bail is to be appreciated by taking into account with respect to nature and gravity of offence, role attributed to the applicant and it should not be a blanket order. Further, in the judgment of the Hon'ble Apex Court of **Susheela Aggarwal and others Vs. State**, the Hon'ble Apex Court has clarified that it would be advisable to the trial courts to issue notice to the Public Prosecutors and obtain facts, even while granting limited anticipatory bail. If the said aspect is appreciated to the facts of the case, as rightly argued by the learned SPP, the protection of life and liberty of the victim would be of paramount consideration and it is the fundamental right as enshrined under Article 21 of Constitution of India. It is also relevant to note that the Court has to balance the equities of the complainant/ victim and the rights granted to the accused. Further, the dictum of the Hon'ble Apex Court at the same time would clearly indicate that the anticipatory bail or the interim bail cannot be granted in a mechanical manner. The court has to look in to the seriousness of the allegations levelled and also with all facts and circumstances of the case. Since the victim is yet to be traced, it would not be appropriate to admit the petitioner herein on interim anticipatory bail. However, at this juncture, it is made clear that the observations made supra are not with respect to the

merits or demerits of the case. Sequentionally, I answer Point No.1 in the Negative.

16. **Point No.2:** In view of my findings on point No.1, I proceed to pass the following:-

ORDER

Interim Bail Application filed by the petitioner under Sec.438 (1-A) of Cr.P.C., is hereby rejected.

(Dictated to Stenographer Grade-I directly on computer, typed by him, revised and corrected by me and thereafter pronounced in open court on 4th day of May, 2024)

(Santhosh Gajanan Bhatt)
LXXXI Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-82)
(Special Court exclusively to deal with criminal cases
related to elected former and sitting MPs/MLAs
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