

Karnataka High Court

Mathivanan Durai Alias Adharsh vs State By Hebbagodi P.S on 4 May, 2023

Bench: G Basavaraja

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CRL.P No. 3408 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF MAY, 2023

BEFORE

THE HON'BLE MR JUSTICE G BASAVARAJA
CRIMINAL PETITION NO. 3408 OF 2023

BETWEEN:

1. MATHIVANAN DURAI ALIAS ADHARSH
DOZO MERCURY GENTS PG
NEELADRINAGAR
MARGONDANAHALLI
BENGALURU DISTRICT - 560100
KARNATAKA

...PETITIONER

(BY SRI. R MURALIDHARAN., ADVOCATE)

AND:

1. STATE BY HEBBAGODI P.S.
STATE REPRESENTED BY
PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA

PRINCIPAL BENCH AT BENCH
AT BENGALURU

HEBBAGODI POLICE STATION - 560001

...RESPONDENT

(BY SRI. R.D. RENUKARADHYA, ADVOCATE)

THIS CRL.P IS FILED U/S.439 CR.P.C PRAYING TO
ENLARGE THE PETITIONER ON BAIL IN CR. NO.85/2023 OF
HEBBAGODI P.S., BENGALURU CITY FOR THE OFFENCE P/U/S
376 OF IPC. THE VI ADDL.DISTRICT AND SESSIONS JUDGE,
BENGALURU RURAL DISTRICT, BENGALURU HAS REJECTED
THE BAIL PETITION ON 30.03.2023 IN CRL.MISC.NO.570/2023.

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

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Digitally signed by
PRAMILA G V
Location: HIGH
COURT OF
KARNATAKA

ORDER

Heard Sri. Muralidharan, learned counsel for the petitioner and Sri. H.S.Renukaradhya, learned High Court Government Pleader for the respondent-State. Perused the records.

2. The present petition is filed under Section 439 of Cr.P.C.

3. On the basis of complaint filed by Deepika, police have registered a case in Cr.No.85/2023 against the accused for the commission of offence punishable under Section 376 of IPC.

4. Brief facts of the petition is that: The victim lodged first information before the respondent-police that she is the elder daughter of her parents and she has got younger brother. She has done MBA. Now, she is working as HR in a bank situated in Electronic City. Earlier, she was working as HR recruiter in some other company. In the said company, she recruited the accused. Therefore, they both became friends. After CRL.P No. 3408 of 2023 few days, the accused came to her house and informed her parents that he wants to marry her. The accused informed her that he likes her, he wants to marry her. But she refused his proposal. On 22.12.2022, she was unwell. The accused took her to the hospital. In the hospital the doctor was not available for consultation. From there, the accused took her to his room in the PG. In the said room, the accused forced her to have sex with him. When she resisted, the accused forcibly committed rape on her. Thereafter, the accused started harassing her and blackmailed her, stating that he will inform about the said incident to her parents. Further, the accused used to force her to send her nude pictures. Hence, she lodged first information before the respondent-police to take action against the accused.

5. The incident took place on 22.12.2022, complaint came to be filed on 21.02.2023, there is an ordinate delay in filing the complaint.

6. It is submitted by the learned counsel for the petitioner that the victim wanted to accused to divorce to CRL.P No. 3408 of 2023 his wife and marry her. The victim continued to meet the accused regularly even after alleged incident of rape.

7. The victim celebrated her birthday with accused in a restaurant on 31.12.2022. The alleged sexual act was a consensual and there was no threat or compulsion as alleged in the complaint.

8. Further it is submitted that victim has not been medically examined as required under Section 164 (A) of Cr.P.C. The victim used to meet the accused regularly even after the alleged incident.

9. Further he has submitted that there are no ingredients to attract the offence under Section 376 IPC. On all these ground sought for allow this application.

10 A perusal of complaint it is clear that the complainant is an MBA graduate, aged about 25 years and there is an abnormal delay in filing the complaint. At this stage, that there are no proper

explanation as to the delay in filing the complaint.

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11. Considering the nature and gravity of offence and also delay in filing the complaint it is just and proper to release the accused on bail with conditions.

Accordingly, I proceed to pass the following:

ORDER i. The criminal petition is allowed. ii. Petitioner/accused is directed to be enlarged on bail by taking a bond in a sum of Rs.1,00,000/- (Rupees One Lakhs only) with one surety for the likesum to the satisfaction of the trial court. iii. The Petitioner/accused shall not tamper or threaten the prosecution witness in any manner.

iv. The Petitioner/accused shall assist the IO for investigation.

Sd/-

JUDGE