



CNR: KAHC010511232026

NC: 2026:KHC:45938
CRL.P No. 11082 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 11082 OF 2026

BETWEEN:

M.E ABDUL SALAM
(ABDUL SALAM.M.E @SALAM HAJI)
S/O LATE M.M. IBRAHIM
AGED ABOUT 65 YEARS,
R/A CONVENT JUNCTION
NEAR PWD OFFICE,
MADIKERI TOWN AND POST,
KODAGU - 571 201.
(NOW IN JUDICIAL CUSTODY)

...PETITIONER

[BY SRI R.K.MAHADEVA, ADVOCATE (PH)]

AND:

- 1 . THE STATE OF KARNATAKA
BY KODAGU WOMEN POLICE STATION,
KODAGU,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
HIGH COURT BUILDING
BENGALURU - 560 001.
- 2 . ASMA
W/O HASAN @ HASAINAR,
AGED ABOUT 45 YEARS,
R/A B.C.ROAD,

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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PARLIYA VILLAGE,
BANTWAL,
DAKSHINA KANNADA DISTRICT - 574 219.
(NATURAL GUARDIAN OF VICTIM GIRL)

...RESPONDENTS

[BY SMT.SOWMYA R., HCGP FOR R1;
SMT.HALEEMA AMEEN, ADVOCATE FOR
SRI ASHOK KUMAR SHETTY K., ADVOCATE FOR R2 (PH)]

THIS CRL.P IS FILED U/S.439 OF CR.P.C., PRAYING TO
ALLOW THE PETITION AND RELEASE THE
PETITIONER/ACCUSED NO.1 ON BAIL IN SPL.C.NO.67/2026
ARISING OUT OF CR.NO.18/2026 REGISTERED BY KODAGU
WOMEN P.S., FOR OFFENCES P/U/S 137(2), 127(2), 64(2)(i),
64(2)(m) OF BNS, U/S 4 AND 6 OF POCSO ACT, PENDING
BEFORE THE HONBLE III ADDL. DISTRICT AND SESSIONS
JUDGE, AT KODAGU.

THIS PETITION IS COMING ON FOR *ORDERS*, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

This petition for regular bail is filed by sole accused in
Spl.C.no.67/2026 on file of III Addl. District and Sessions
Judge, Kodagu, in Crime no.18/2026 registered by Kodagu
Women Police Station for offences punishable under Sections



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137(2), 127(2), 64(2)(i), 64(2)(m) of Bharatiya Nyaya Sanhita, 2023 (**BNS**) and Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012 (**POCSO**).

2. Sri RK Mahadeva, learned counsel for petitioner submitted, case of prosecution was based on complaint filed by daughter of respondent no.2 (**victim**), alleging that she was 17 ½ years of age and residing with her family at Parliya village, D.K. Since she hailed from poor family, she had apprehensions that her marriage would cause financial hardship. And when she confided with her neighbour Sameera, she informed that accused (**petitioner**) residing in Madikeri had offered financial aid and suggested victim to approach him. Sameera called accused and had victim speak with him, wherein he instructed victim to visit Madikeri on 31.03.2026. And as per instructions she arrived at Bus Stand, Madikeri at about 08:30 p.m. on 31.03.2026 and informed same to Sameera, who in turn informed petitioner. Thereafter, petitioner came in Scorpio Car and took her to his house, where after dinner and on pretext of providing financial assistance for marriage he touched her inappropriately and at 11:00 p.m., despite her explicit refusal



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and resistance committed rape, which he repeated next morning at 9:00 a.m. Thereafter, he took her in his vehicle till Sullia, handed Rs.10,000/- in cash and asked to go home by Bus. Since, her parents were ill, she did not disclose about incident. Only after her aunt noting her persistent depression enquired, victim revealed about incident. As per her advise, complaint was filed seeking action against petitioner.

3. It was submitted though petitioner was a law-abiding citizen aged 63 years with no criminal antecedents and had not committed any offence muchless those alleged. That he was apprehended on 06.05.2026 and while he was lingering in jail, Police completed investigation and filed charge sheet (**CS**) for offences punishable under Sections 137 (2), 127 (2), 64 (2) (m) of BNS and Sections 4 and 6 of POCSO.

4. It was submitted, petitioner had filed Crl.Misc.no.243/2026 for regular bail. But by order dated 21.07.2026, same was rejected without proper consideration, leading to this petition.



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5. It was submitted, even as per complainant, petitioner was a total stranger to complainant and victim went to him for financial assistance which she received. Complaint was filed much later based on fabricated story and as an after-thought, evident from delay of 1 month and 6 days in filing complaint. It was submitted as per settled principle of law, an accused was presumed to be innocent until proved to be guilty of offence.

6. Fact that complainants case pivoted on statement of complainant's friend referred to as CW.4 in CS also indicated that complaint allegations were cooked up by them to harass petitioner. Under such circumstances, as conclusion of trial was likely to be delayed, petitioner was entitled for bail.

7. It was submitted that Courts had granted bail even in cases involving offence under POCSO and victim was below age of 18 years and relied on decisions in ***Deshraj alias Musa v. State of Rajasthan & Anr.*** reported in ***2024 SCC OnLine SC 2709***; and of this Court in ***Vikas K. v. State of Karnataka*** [2026:KHC:23711], ***Devaraju @ Vinith Devendra @ Devu v. State of Karnataka & Anr.*** [2026:KHC:10769], ***Manoj N. v.***



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State of Karnataka & Anr. [2025:KHC:26176], **Govindaraju v. State of Karnataka** [2022:KHC:3207], **Rangaswamy v. State & Anr.** [2024:KHC:43762], **Manjunatha v. State of Karnataka & Ors.** [2026:KHC:29293] and **Hriday Shankar v. State of Karnataka & Anr.** [2026:KHC:14093]. On above grounds, prayed for allowing petition.

8. Smt.Sowmya R., HCGP for respondent no.1 - State opposed petition. It was submitted that in both complaint as well as her statement recorded under Section 183 of Bharatiya Nagarika Suraksha Samhita, 2023 (**BNSS**) victim had made clear allegations of repeated rape against petitioner. Same was corroborated by statement of CW4, Panchanama and also Medical Examination Report (showing rupture of Hymen) etc. It was submitted, offence alleged against petitioner were heinous carrying sentence of upto twenty years and in view of presumption in law provided under Section 29 of POCSO, burden would be on petitioner to establish his innocence and in any case, veracity of allegations was matter for trial. It was further submitted that in case of grant of bail, petitioner was



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likely to exploit difference in financial status and tamper with prosecution witnesses. On above grounds, sought for dismissal.

9. Smt.Haleema Ameen, learned counsel appearing for Sri Ashok Kumar Shetty, advocate for complainant adopted submissions of learned HCGP and opposed petition. In addition, she submitted, victim being minor had suffered depression, until enquiry by her aunt. Therefore, there was sufficient explanation for belated complaint and same was not fatal. Decisions relied on by petitioner were contended to be inapplicable as they were involving consensual relationship unlike present case. In view of presumption available under Section 29 of POCSO, learned counsel prayed for dismissal of petition.

10. Heard learned counsel and perused material on record.

11. From above point that arises for consideration is:

"Whether petitioner is entitled for regular bail?"

12. This petition for regular bail is by sole accused arraigned for offences punishable under Sections 137 (2), 127 (2), 64 (2) (m) of BNS and Sections 4 and 6 of POCSO.



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13. As noted above, investigation is completed and charge sheet is filed. Petitioner is arrested on 06.05.2026 and has been in jail for about two and half months. Indeed, as held by Hon'ble Supreme Court in **Sanjay Chandra v. CBI** reported in **(2012) 1 SCC 40** general legal principle in criminal law is presumption of innocence until conviction and rule against incarceration as undertrial. At same time, it is seen that offences alleged against petitioner are heinous in nature carrying minimum sentence of ten years and upto life imprisonment or twenty years under POCSO.

14. Prima facie, prosecution case is based on clear allegations of rape by victim, which is re-iterated in her statement recorded under Section 183 of BNSS, corroborated by statement of CW.4. Prosecution has also collected CDR and CAF of calls made between victim, CW4 and petitioner. As per FSL report, bedsheet (item no.5) tested positive for semen stains. Medical Examination Report indicates rupture of hymen. As per Birth Certificate victim was born on 29.10.2008. Therefore, as on date of incident i.e., 31.03.2026, she would be around 17½ years of age, attracting offences under POCSO.



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Though prosecution would have to establish commission of offences by petitioner during trial, at this stage presumption in law in Section 29 of POCSO would weigh against petitioner.

15. Moreover, statement of victim and her family members is yet to be recorded. Though, various decisions wherein bail was granted even in cases involving offences under POCSO, there was no explanation about their relevance to present case. Merely on ground that in various cases bail was granted cannot be a ground for grant of bail in all cases involving offences under POCSO, as against age of victim at 17½ years, petitioner is more than 62 years of age.

16. Amongst various factors suggested by High Court of Delhi in case of **Dharmander Singh v. State (Government of NCT of Delhi)**, reported in **2020 SCC OnLine Del 1267**, while considering post-charge sheet bail applications for offences under POCSO, large difference in age of accused and victim, difference in financial/social status of accused vis-à-vis victim where accused would be in a dominating position with possibility of subverting trial would be aggravating factors



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against grant of bail. Absence of criminal antecedents, brutality while committing rape may be in favour of accused, fact that incident in question did not occur during age of adolescence of accused and on pretext of providing financial assistance would weigh against accused. On an overall consideration, this case does not appear to be fit for grant of bail at this stage. Point for consideration is answered in negative. Hence following:

ORDER

Petition is ***dismissed***.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

AV,YKL
List No.: 1 Sl No.: 46