IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE H.P. SANDESH

CRIMINAL PETITION No.7541/2020

BETWEEN:

IMRAN ZAKEER,
AGED ABOUT 22 YEARS,
S/O JAVEED AKTHAR,
R/AT NO.65, NEAR KINTO SCHOOL,
5TH CROSS, VINAYAKANAGARA,
HALEGUDDAHALLI, BENGALURU. … PETITIONER

[BY SRI RAJESH RAO K., ADVOCATE (THROUGH VC)]

AND:

1. THE STATE BY
JAGAJEVANRAMNAGAR P.S.,
REPRESENTED BY THE GOVERNMENT PLEADER,
HIGH COURT OF KARNATKA,
BENGALURU - 560 001.

2. KUMARI VASEEMA,
D/O JAVED AKTHAR,
AGED 16 YEARS,
R/AT NO.65, 5TH CROSS,
HALEGUDDADHA HALLI,
NEAR KINTO SCHOOL,
VINAYAKANAGARA,
BENGALURU - 560 026. … RESPONDENTS

(BY SRI MAHESH SHETTY, HCGP FOR R-1,
R-2 SERVED UNREPRESENTED)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING THIS COURT TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.49/2019 (SPL.NO.875/2019) OF JAGAJEEVANRAM NAGAR P.S., BENGALURU DISTRICT FOR THE OFFENCE PUNISHABLE UNDER SECTION 376 OF IPC AND SECTIONS 2, 4, 5(j), (2)(L)(N) READ WITH SECTION 6 OF POCSO ACT.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THROUGH VIDEO CONFERENCE THIS DAY, THE COURT MADE THE FOLLOWING:

O R D E R

This petition is filed under Section 439 of Cr.P.C. seeking regular bail of the petitioner in Crime No.49/2019 (Spl.C.No.875/2019) of Jagajeevanram Nagar Police Station, Bangalore, for the offences punishable under Sections 376 of IPC and Sections 2, 4, 5(j)(ii), (l), (n) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' for short).

2. Heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the State.

3. The factual matrix of the case is that the victim girl aged about 16 years was subjected to sexual act. As a result, she became pregnant and delivered a baby and the baby passed

away. The police have registered the case against the petitioner for the offence punishable under Section 376 of IPC and Sections 2, 4, 5(j)(ii), (l), (n) read with Section 6 of the POCSO Act

4. The learned counsel for the petitioner would submit that the case was registered after lapse of nine months from the date of the alleged incident and bogus story was created against the petitioner colluding with the persons who are having animosity with the petitioner to destroy the bright carrier. The police have completed the investigation and charge-sheet is also filed. The petitioner is in custody and he is not required for the purpose of any enquiry. Hence, the petitioner is entitled for bail.

5. Per contra, the learned High Court Government Pleader appearing for the State would submit that the petitioner is none other than the brother of the victim girl and due to the act of the petitioner, she became pregnant and delivered a baby. The DNA test discloses that he is the biological father of the baby and there is a prima facie case against the petitioner.

6. Having heard the submissions of the respective counsel and also on perusal of the material available on record,

it is clear that the investigation has already been completed and charge-sheet has been filed. The medical records is against the petitioner and the DNA report confirms that he is the biological father of the baby. Having taken note of the gravity of the offence and the fact that the victim girl is aged about 16 years and the petitioner is none other than the brother of the victim, it is not a fit case to exercise the discretion in favour of the petitioner.

7. In view of the discussions made above, I pass the following:

ORDER

The petition is rejected.

Sd/-
JUDGE

MD