

IN THE COURT OF THE II ADDITIONAL DISTRICT & SESSIONS

JUDGE : AT KOLAR

Dated this the 26th day of APRIL-2018

PRESENT

Smt B.S.REKHA, B.A.(Law), LL.M,
II Addl. District & Sessions Judge, Kolar.

S.C.No.1/2018

Complainant : State of Karnataka,
Rep. by PSI, Mulbagal Rural Police station
Mulbagal.

V/S

Accused : Muniraju
S/o Shivashankarappa,
a/a 25years, R/o Bettagerahalli Village,
Mulbagal Taluk.

(Rep. By Sri M.M.G., Adv)

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ORDER ON BAIL APPLICATION OF ACCUSED NO.1

The present bail application is filed by accused No.1 by name Muniraju under Sec. 439 of Code of Criminal Procedure to release him on bail on the grounds that he will not violate the bail conditions in future and he will offer fresh surety for his enlargement on bail. He further states that there is previous ill will between the parties, there is delay in recording the statement. Earlier he filed bail application, which was rejected. Now he is no more required for investigation. The FSL report is negative. The Co-accused is released on bail and he requested the court to grant

bail on the ground of parity. He will ready to abide by the conditions that may be imposed by this court. Hence prays for bail.

2. *The learned Public Prosecutor filed his objections contending that the grounds urged by the accused No.1 for grant of bail are not tenable in the eyes of law. The investigation is completed but still the documents are required. At this stage if the accused No.1 is released on bail, he may abscond again which will hamper the future legal proceedings or he may threaten the witnesses or destroy the evidence. Hence prayed to reject the bail application.*

3. *Arguments of learned counsel for the accused and learned Public Prosecutor heard.*

4. *On the basis of the above facts, the following point arises for my consideration:*

***Whether the accused No.1 Muniraju
is entitled for bail?***

5. *My answer on the above point is in the Negative, for the following:*

REASONS

6. *The case of the prosecution is that, on 3.10.2017 at about 7.00 p.m. the victim had given statement by alleging that on*

3.9.2017 when her parents and sister were in Jalappa hospital and she was alone in the house and she went to attend the nature call at 10.00 p.m. the accused by gagging the mouth taken her to his house and committed rape her. On the next day at 10.00 a.m. when her sister came she intimated this and thereafter the matter was intimated to her parents and her parents intimated to villagers, but the accused and his family members did not come for panchyath. On 2.10.2017 when she went to washing the utensils near the tank at 5.30 p.m. all the accused came and attempted to commit her murder by poisoning her and thereafter she was taken to hospital and thereby the accused had committed the offences charged against them.

7. On perusal of the records it is clear that earlier accused had filed bail application which came to be rejected. In this case the allegation of the prosecution is that, when the victim was alone in the house, the accused committed rape and she intimated the same to her sister and then to her parents. In this case earlier the bail application came to be rejected on the ground that, the medical records are not produced by both sides and the victim was minor. Now the FSL report is produced which shows that seminal stains were not detected. Even the doctor had given opinion that there is

no recent history of sexual intercourse. However in the preliminary medical record, there was irregular tear of hymen. The doctor opined that the alleged history of rape is one month prior to the date of examination. In this case on perusal of materials available on record, even though the FSL report is negative, but there is irregular hymen rapture. The doctor examined the victim after one month of the incident and the victim had narrated about the incident even before the magistrate that the accused has committed rape on her. Thus, in my opinion if the accused is released on bail he will tamper with the prosecution witnesses and he may flee from justice. Hence in my opinion he has not made out any grounds to release him on bail: Hence I answer the above point in the negative.

ORDER

***The application filed under Sec.439 Cr.P.C. by
accused No.1-Muniraju is hereby rejected.***

Dictated to the judgment writer on-line & computerized by her,
revised, corrected by me and then pronounced in the open court on this
the **26th day of April-2018.**

(B.S.REKHA)

II Addl. District & Sessions Judge,
Kolar.