IN THE HIGH COURT OF KARNATAKA, BENGALURU DATED THIS THE 22ND DAY OF JUNE, 2020 BEFORE THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT CRIMINAL PETITION NO.2427 OF 2020 BETWEEN: SRI RAKESH B S/O B BABU RAO AGE ABOUT 27 YEARS R/A NO 48,19TH MAIN ROAD LALITA TENT GROUND VIJAYANAGAR MC LAYOUT, BENGALURU NORTH BENGALURU - 560040 ...PETITIONER (BY SRI C H HANUMANTHARAYA, Sr.ADVOCATE) AND STATE OF KARNATAKA BY RAJARAJESHWARI POLICE STATION REP BY THE SPP HIGH COURT BANGALORE, KARNATAKA - 560001 ...RESPONDENT (BY SRI K NAGESHWARAPPA, HCGP) THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.87/2020 OF RAJARAJESHWARINAGARA P.S., BENGALURU FOR THE OFFENCE P/U/S 376,420,506 OF IPC AND SEC.66(B) OF THE INFORMATION TECHNOLOGY ACT 2000. THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:-

2 ORDER

Petitioner being the accused in Crime No.87/2020 of Rajarajeshwarinagara Police Station, for the offences punishable u/s. 376,420 & 506 of IPC, 1860 and Sec.66-B of Information Technology Act, 2000 has presented this petition u/s.438 of Cr.P.C. 1973 seeking Advance Bail, his similar prayer in Closure Crl. Misc. No. 111/2020 having been negatived by the learned LIII Addl. City Civil Sessions Special Judge (CCH-54), Bengaluru vide order dated 19.05.2020.

2. The learned HCGP having accepted notice for the respondent - State vehemently opposes the petition contending that - the offences alleged against the petitioner are serious in nature; there is sufficient material on record to relate the petitioner to the commission of said offences; it is unsafe to the society to grant Advance Bail to the offenders like the petitioner; the learned judge of the Court below having considered all aspects of the matter has rightly rejected his claim; even otherwise, the indulgence of this Court in concurrent jurisdiction is not warranted; so contending, he seeks dismissal of the petition.

3. Having heard the learned counsel for the parties and having perused the petition papers, this Court is inclined to grant Anticipatory Bail to the petitioner for the following reasons and subject to the conditions hereinafter stipulated:-

a) the offences alleged against the petitioner being punishable u/s. 376,420 & 506 of IPC, 1860 and Sec.66- B of Information Technology Act, 2000 are serious in nature, is arguably true; however, seriousness alone is not the criteria to deny liberty to the citizen when there is no prima facie case from the side of the State Police;

b) the version of the complainant that she was subjected to rape on the false promise of marriage in the given circumstances of the case, is bit difficult to believe at this stage; there is a letter allegedly written by the complainant to the effect that she was ready to withdraw the complaint if a compromise is brought about, especially when the complainant had employed the services of the petitioner since last two years or so; nothing is stated by the complainant as to why she did not approach the Court at the earliest point of time when the petitioner was allegedly forcing her for sexual favours;

c) nothing is mentioned by the complainant as to why she went to her office at night ie., 11.00 p.m.; she has also not objected to consuming drinks with the petitioner and allowing him to stay with her till morning; the explanation offered by the complainant that after the perpetration of the act she was tired and fell asleep, is unbecoming of an Indian woman; that is not the way our women react when they are ravished;

d) the version of the complainant that she had been to Indraprastha Hotel for dinner and that the petitioner having consumed drinks came and sat in the car, even if is assumed to be true, there is no explanation offered for not alerting the police or the public about the conduct of the petitioner; thus there are sufficient grounds to admit the petitioner to Advance Bail, especially when granting of bail is the rule and denial is an exception vide GUDIKANTI NARASIMHULU VS. PUBLIC PROSECUTOR, AIR 1978 SC 429 whose ratio can be arguably invoked even in petitions seeking Advance Bail; this apart, Courts cannot loose sight of COVID-19 pandemic which poses the threat of infection to the detenues in prison; and,

e) the contention of the learned HCGP that if Advance Bail is granted to the petitioner it would be difficult to secure his presence for investigation or trial, can be addressed by imposing stricter conditions, violation of which will entail him with the cancellation of bail.

4. In the above circumstances, this petition succeeds; petitioner is ordered to be enlarged on bail if & when arrested in connection with Crime No.87/2020 of Rajarajeshwarinagara Police Station, if not required in relation to any other offence, subject to the following conditions:

(i) petitioner shall execute a Personal Bond for a sum of Rs.1,00,000/- (Rupees one lakh) only with two sureties for the like- sum;
(ii) petitioner shall cooperate in the investigation/further investigation at all times and appear before the jurisdictional police, if & when, so directed;
(iii) petitioner shall not leave the jurisdictional limits of the trial Court without its prior permission;
(iv) petitioner shall mark his attendance in the jurisdictional Police Station every second and fourth Saturday of the calendar month between 9.00 am and 3.00 pm;

(v) the petitioner shall not tamper the evidence or influence/deter the witnesses/victims; nor shall he do anything prejudicial to peace & order in the civil society;

(vi) it is open to the jurisdictional police or the complainant to seek cancellation of bail if & when petitioner commits breach of any of the above conditions or perpetrates any offence hereafter.

Sd/-

JUDGE Bsv