

Karnataka High Court Sri Annappa @ Subbu @ Subbe Gowda vs State Of Karnataka on 3 September, 2014 Author: Budihal R.B. 1

IN THE HIGH COURT OF KARNATAKA AT BANGALORE DATED THIS THE 3RD DAY OF SEPTEMBER, 2014 BEFORE THE HON'BLE MR.JUSTICE BUDIHAI R.B.

CRIMINAL PETITION NO.4450/2014

BETWEEN:

SRI ANNAPPA @ SUBBU @ SUBBE GOWDA S/O LATE NINGE GOWDA, AGED ABOUT 30 YEARS, R/AT M.C. HALLI VILLAGE, AND POST, TARIKERE TALUK, CHIKKMAGALUR DISTRICT ...PETITIONER

(BY SRI RAJASHEKARA R V., ADV.)

AND

STATE OF KARNATAKA BY ITS STATION HOUSE OFFICER, H S R LAY OUT POLICE STATION, BANGALORE CITY-560068 ...RESPONDENT

(BY SRI NAGESHWARAPPA K., HCGP)

THIS CRL.P FILED U/S.439 CR.P.C PRAYING TO

ENLARGE THE PETR. ON BAIL IN (CRIME NO.242/12) IN S.C.NO.289/14 ON THE FILE OF THE XLV ADDL. CITY CIVIL AND S.J., BANGALORE, FOR THE OFFENCES P/U/S 498(A), 304(B) OF IPC AND SEC. 3 AND 4 OF D.P. ACT.

THIS CRIMINAL PETITION COMING ON FOR ORDERS

THIS DAY, THE COURT MADE THE FOLLOWING: 2

#### ORDER

This is the petition filed by the petitioner/accused under Section 439 of Cr.P.C. seeking his release on bail for the offences punishable under Sections 498A and 304B of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961, registered in respondent - police station Crime No.242/2012. 2. Heard the arguments of the learned counsel appearing for the petitioner/accused and also the learned High Court Government Pleader appearing for the respondent-State. 3. Learned counsel for the petitioner during the course of his arguments submitted that when the alleged incident took place petitioner was not in the house and when he came to know about the incident, he came to the house immediately and shifted the deceased to the hospital. He has submitted that it is the petitioner,

who informed the parents of the deceased to come with 10,000/- for the medical expenses. He has further submitted that petitioner has never insisted the deceased to bring dowry amount and he has never given physical or mental torture to her. He has also submitted that when the deceased was admitted to Victoria Hospital as per the decision of the parents she was shifted to Shimoga Megan Hospital and in the said hospital she succumbed to the incident. Learned counsel has submitted that though all the facilities are available in the Victoria Hospital but because of the wrong decision taken by the parents, deceased has been shifted from Victoria Hospital to Shimoga Megan Hospital. Hence, parents are also responsible in her death. Learned counsel has submitted that even in recording the statement under the provision of Section 161 of Cr.P.C there is delay of nearly two months. Hence, he has submitted that, if at all, petitioner was involved in the alleged offences there could have been complaint against the petitioner. He has submitted that even looking to the statement of witnesses recorded by the Investigating Officer during investigation, it will not make out a prima-facie case against the petitioner. Hence, learned counsel has submitted that by imposing reasonable conditions petitioner may be enlarged on bail. 4. As against this, the learned High Court Government Pleader during the course of his arguments submitted that alleged incident has taken place within 7 years from the date of marriage of the petitioner with the deceased and it has taken place in the house of the petitioner when the deceased was leading her marital life. He has submitted that looking to the complaint averments and also statement of witnesses recorded by the Investigating Officer during investigation, they prima-facie makes out a case of ill-treatment and harassment to the deceased in connection with the dowry amount and because of that reason she committed suicide by pouring kerosene oil on her body and lit fire to herself. Hence, he has submitted that prosecution placed prima-facie material against the petitioner. Hence, he has submitted that petitioner is not entitled to be granted with bail. 5. I have perused the averments made in the bail petition, FIR, complaint and other materials placed on record. Father of the deceased is the complainant in the case, wherein he has stated that about five years back the deceased was given in marriage to the petitioner and it was registered. After the marriage, when the petitioner insisted for the payment of Rs.40,000/- as a dowry amount and thinking that his daughter will lead happy marital life, complainant went to the house of the petitioner and paid the amount of Rs.40,000/-. It is also the allegation in the complaint that even thereafter also petitioner along with his family members started to insist the deceased to bring an additional amount of Rs.50,000/- as dowry and in that connection they started to give physical and mental harassment to her. It is further stated that six months earlier to the incident of this case, complainant went and paid Rs.10,000/- out of Rs.50,000/- and with regard to remaining amount of Rs.40,000/- petitioner and his family members often use to give ill-treatment to the deceased and because of the ill-treatment meted out to her and when it became intolerable his daughter poured kerosene and lit fire to herself and on 28.05.2012 when she was admitted to hospital because of the burn injuries and ultimately she succumbed to burn injuries. On the basis of the alleged offences, case has been registered

against the petitioner and other family members. 6. The admitted facts are that the alleged incident has taken place within 7 years from the date of marriage and it has taken place when the deceased was in the house of the petitioner. I have also perused the statement of CWs-1 to 6 recorded by the Investigating Officer during investigation. They have stated in their statement about the ill-treatment and harassment to the deceased in connection with the dowry amount. So at this stage, the materials prima-facie shows that even earlier to the alleged incident the deceased was subjected to ill-treatment and harassment. Materials prima-facie shows that petitioner abetted the commission of alleged offence by the deceased. It is true, as submitted by the learned counsel for the petitioner that the statement of witnesses were recorded after two months. But in this case when the case was within the jurisdiction of the police station of Shimoga, on the point of jurisdiction, it is transferred and in that process time has consumed, so when the prima-facie material is placed, only on that ground the entire case of the prosecution cannot be rejected on that ground. Looking to the materials on record, I am of the opinion that it is not a fit case to exercise the discretion in favour of the petitioner and to release him on bail. However, in view of the submission made by the learned counsel for the petitioner that since two years petitioner is in custody, concerned Sessions Court is hereby directed to take up the matter on priority basis and to dispose of the matter as early as possible but not later than four months from the date of receipt of copy of this letter. Registry is directed to intimate the order to the concerned Sessions Court, immediately. With these observations, petition is rejected. Sd/- JUDGE BSR