

Chetan Alias Chetan vs /O Gurusiddappa V/S The State Of ... on 24 February, 2025

Author: Ravi V.Hosmani

Bench: Ravi V.Hosmani

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NC: 2025:KHC-D:3
CRL.P No. 100473 of 2

IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH

DATED THIS THE 24TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

CRIMINAL PETITION NO.100473 OF 2025
[439(CR.PC)/483(BNSS)]

BETWEEN:

CHE TAN @ CHETAN V. S/O. GURUSIDDAPPA,
AGE: 39 YEARS, OCC. BUSINESS,
R/O. H.NO.414, 35TH WARD,
INFRONT OF AKASHAVANI, ESWARA NAGAR,
HOSAPETE, VIJAYANAGAR DIST-583201.

... PETIT

(BY SRI ANWAR BASHA B., ADVOCATE)

AND:

THE STATE OF KARNATAKA
(THROUGH TOWN P.S. HOSAPETE)
REP. BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,

Digitally signed

AT DHARWAD-580001.

by
MALLIKARJUN

MALLIKARJUN RUDRAYYA
RUDRAYYA KALMATH

KALMATH Date:

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(BY SMT. GIRIJA S.HIREMATH, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. (UNDER SECTION 483 OF BNSS), SEEKING TO ALLOW THE PETITION AND ENLARGE THE PETITIONER/ACCUSED NO.1 ON REGULAR BAIL IN CRIME NO.150/2024 REGISTERED BY HOSAPETE TOWN P.S. FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 80, 85, 3(5) OF BNS, SECTION 115(2), 352 OF BNSS AND SECTIONS 3 AND 4 OF DOWRY PROHIBITION ACT, PENDING TRIAL OF THE SAID CASE, BEFORE PRL. SENIOR CIVIL JUDGE AND JMFC COURT, HOSAPETE, BALLARI, SITTING AT HOSAPETE.

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

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ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI) This petition is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') for grant of regular bail in Crime no.150/2024 by Hosapete Town Police Station, for offences punishable under Sections 80, 85, 115(2), 352 read with 3 (5) of Bharatiya Nyaya Sanhita, 2023 ('BNS' for short) and Sections 3 and 4 of Dowry Prohibition Act, 1961 ('DP Act' for short) by accused no.1 (petitioner).

2. Sri B.Anwar Basha, learned counsel for petitioner submitted, case of prosecution was based on complaint filed by Veerashetti (complainant), father of Gayatri (victim) that his daughter Gayatri married earlier was residing with him after her divorce. Likewise petitioner was also divorced. Marriage of petitioner with Gayatri was solemnized on 22.04.2024 at Bidar as per Hindu customs. Thereafter, victim was sent to reside with her husband at Hosapete. Complainant stated that within one week that she informed him she was not happy in matrimonial home and that her husband's family members were harassing her for dowry. When she came back to NC: 2025:KHC-D:3683 maternal home, a month after marriage, she complained that she was not being cared for very well in matrimonial home and they were in habit of picking mistakes in everything she did. She also stated, husband (accused no.1) and mother-in-law (accused no.2) told her they were expecting higher amount of dowry. After residing with complainant for about 45 days, she was sent back with her brother on 12.08.2024. Within two days thereafter she called complainant over phone to inform him that her sister-in-law Gayatri was suffering from Bhanamati and she was being asked to perform rituals which had instilled fear enough. Complainant had asked a relative to visit victim's house and verify her well being. Relative had informed complainant that victim was under severe depression. Immediately complainant went to Hosapete and brought his daughter to his home. At

that time, victim had reiterated her complaints against accused no.1 and 2 and her fear about strange rituals, she was asked to perform for her sister-in-law. She had also stated that when she protested, her husband and parents-in-law were enraged and had beaten her. Thereafter, petitioner had called complainant asking for victim to be sent back. Therefore on 20.10.2024, she was sent along with NC: 2025:KHC-D:3683 complainant's younger son Sathish. It was stated, petitioner had assured complainant to take good care of victim, but on next day i.e. 21.10.2024 at 9:30 a.m., victim called complainant to inform him that sim card of her mobile phone was damaged and therefore her phone might be switched off. At 10:30 a.m., petitioner called complainant to inform that victim had tried to commit suicide, but was still alive and taken to hospital. Later complainant was informed that she had died. Alleging that due to dowry harassment and forcing victim to perform rituals, accused had instilled fear in mind of victim and she had committed suicide, complaint was filed. Same was registered in Crime no.150/2024 (supra).

3. It was submitted, there were two allegations in complaint firstly about dowry harassment. It was submitted, petitioner was running a travel agency and earning good income. Therefore, there would be no need for demanding dowry. Second reason requiring victim to perform rituals for curing ailments of her sister-in-law, it was submitted, petitioner's two sisters were not residing at Hosapete, but at Tumkur and at Kurgodu respectively. It was further submitted, NC: 2025:KHC-D:3683 petitioner's sister was under treatment for depression at Tumkur. Therefore, there was no truth in allegations.

4. It was further submitted, petitioner's parents were retired and bedridden and as such dependent on petitioner. It was submitted, petitioner was arrested on 22.10.2024 and while he was in custody, investigation agency had completed investigation and filed charge sheet on 09.12.2024. Therefore, there would be no need for any further custodial interrogation. Besides, petitioner did not have any criminal antecedents and due to his absence, his business was suffering. On said grounds sought for allowing petition.

5. On other hand Smt.Girija S. Hiremath, learned HCGP opposed petition. It was submitted, offences alleged against petitioner were under Sections 80, 85, 115 (2), 352 read with 3(5) of BNS apart from Section 3 and 4 of DP Act. It was submitted, incident occurred on 21.10.2024 within six months from date of marriage i.e. 22.04.2024. Victim had confided about dowry harassment as well as forcing her to perform rituals for curing ailments of her sister-in-law. There were clear averments about same in complaint. Besides during NC: 2025:KHC-D:3683 investigation, Investigating Officer ('IO', for short) had recorded statements of independent persons i.e. CWs.22, 23 and 24 - employees of petitioner, who were aware of mental ailments suffered by petitioner's sister. They also stated that victim confided with them about dowry harassment. Thus, there was sufficient material to prima facie indicate commission of offence. Therefore, petitioner was not entitled for bail. It was further submitted, postmortem examination report clearly indicated cause of death as due to asphyxiation. On above grounds sought for rejection.

6. Heard learned counsel and perused material available on record.

7. From above, only point that would arise for consideration is:

"Whether petitioner is entitled for grant of regular bail on condition?

8. This petition is for regular bail in Crime no.150/2024 for offences punishable under Sections 80, 85, 115 (2), 352 read with 3 (5) of BNS apart from Sections 3 and 4 of DP Act.

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9. Offence under Section 80 of BNS attracted punishment of imprisonment upto 7 years; offence under Section 85 of BNS attracts punishment of imprisonment upto 3 years; offence under Section 115 (2) of BNS attracts punishment of imprisonment upto 1 year and offence under Section 352 of BNS attracts punishment of imprisonment upto 2 years. Further offence under Sections 3 and 4 of DP Act attracted imprisonment upto 10 years. Thus nature of offences alleged would be grave.

10. However, there are two diverse reasons mentioned in complaint, one is demand for dowry and other is forcing victim to perform ritualistic. Insofar as demand for dowry, prosecution seeks to rely upon statement of victim made to her father and CWs.22, 23 and 24. Offences under Section 3 and 4 of DP Act do not attract imprisonment of death or imprisonment for life. Likewise in case of offences under BNS. Moreover, prosecution has not denied or disputed fact that there are no criminal antecedents of petitioner and he is stated to be permanent resident of Hosapete along with his parents who are old aged ailments and dependent on him. It is also not in dispute that investigation is completed while petitioner was in NC: 2025:KHC-D:3683 custody and charge sheet filed on 09.12.2024. Thus, there would be no further requirement of petitioner for custodial interrogation.

11. Under above circumstances, it would be appropriate to enlarge petitioner on bail subject to conditions. Point for consideration is answered in affirmative. Hence, following:

ORDER Petition is allowed. Petitioner - accused no.1 is ordered to be enlarged on bail in Crime no.150/2024 of Hosapete Town Police Station for offences punishable under Sections 80, 85, 115 (2), 352 read with 3 (5) of BNS and Sections 3 and 4 of DP Act, subject to following conditions:

a) Petitioner - accused shall execute a personal bond in a sum of Rs.1,00,000/- with two sureties for likesum to satisfaction of Court.

b) He shall not threaten or tamper with any prosecution witnesses either directly or indirectly.

c) He shall not indulge in any criminal activities.

d) He shall be regular in attending Court proceedings.

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e) It is clarified that views expressed are prima facie for purposes of this order and shall not influence final outcome after trial.

SD/-

(RAVI V.HOSMANI) JUDGE CLK CT:PA