

Fareeda Batanawale W/O Barakata Ali vs State Of Karnataka on 24 February, 2025

Author: Ravi V.Hosmani

Bench: Ravi V.Hosmani

- 1 -

NC: 2025:KHC-D:
CRL.P No. 100635 of

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.100635 OF 2025
[438(Cr.PC)/482(BNSS)]

BETWEEN:

1. FAREEDA BATANAWALE
W/O. BARAKATA ALI,
AGED ABOUT 56 YEARS,
OCC. HOME MAKER,
RESIDING AT BYALI PLOT,
5TH CROSS, MANTUR ROAD,
HUBBALLI-580020.
2. FARHAT AARA SHAIKH
W/O. SAMEER SHAIKH,
AGED ABOUT 34 YEARS,
OCC. HOME MAKER,
RESIDING AT BYALI PLOT,
5TH CROSS, MANTUR ROAD,

Digitally signed
by

HUBBALLI-580020.

MALLIKARJUN
MALLIKARJUN RUDRAYYA
RUDRAYYA KALMATH
KALMATH Date:
2025.02.25

14:31:08

+0530

3. RAHAT BEGAM TAKIWALE
W/O. MOHAMMAD YUSUF,
AGED ABOUT 32 YEARS,
OCC. HOME MAKER,
RESIDING AT ADIJI CHAWL,
HOSUR, GOKUL ROAD, HUBBALLI-580020.

4. NUSARATHBANU HYDERABAD
W/O. ASLAM HYDERABAD,
AGED ABOUT 36 YEARS,
OCC. HOME MAKER,
RESIDING AT #34 BYALI PLOT,
1ST CROSS, MANTUR ROAD,
HUBBALLI-580020.

-2-

NC: 2025:KHC-D:3724
CRL.P No. 100635 of 2025

5. NIKHATARA BHADRAPUR
W/O. SAYED IMRAN BHADRAPUR,
AGED ABOUT 26 YEARS,
OCC. HOME MAKER,
RESIDING AT TORAVI GALLI,
BEHIND MADINA RESTAURANT,
BHANDIWAD BASE, HUBBALLI-580020.

... PETITIONERS

(BY SRI ANKIT R. DESAI, ADVOCATE FOR
SRI MALLIKARJUNSWAMY B. HIEMATH, ADVOCATE)

AND:

STATE OF KARNATAKA
HUBBALLI-DHARWAD CITY WOMEN POLICE STATION,
HUBBALLI,
BY ITS POLICE INSPECTOR,
ALSO REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENCH AT DHARWAD-580001.

... RESPONDENT

(BY SMT. GIRIJA S.HIEMATH, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF
BNSS, SEEKING TO GRANT BAIL TO PETITIONER NO.1 TO
5/ACCUSED NO.2 TO 6 IN EVENT ARREST BY POLICE FOR OFFENCES
PUNISHABLE UNDER SECTIONS 80, 85, 115(2), 352 READ WITH
SECTION 3(5) OF BHARATIYA NYAYA SANHITA 2023 AND SECTION 4

OF DOWRY PROHIBITION ACT IN CRIME NO.2/2025 REGISTERED BY HUBBALLI DHARWAD CITY WOMEN POLICE STATION PENDING ON THE FILE OF PRL. CIVIL JUDGE AND JMFC HUBBALLI ON THE FOLLOWING FACTS AND GROUNDS BY ALLOWING THIS INSTANT PETITION.

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

-3-

NC: 2025:KHC-D:3724
CRL.P No. 100635 of 2025

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI) This petition for anticipatory bail is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short) by accused no.2 to 6 in Crime no.02/2025 registered by Hubballi-Dharwad City Women Police Station, for offence punishable under Sections 85, 115 (2), 352 read with Section 3 (5) of Bharatiya Nyaya Sanhita, 2023 ("BNS" for short) and Section 4 of Dowry Prohibition Act, 1961 ("DP Act" for short).

2. Sri Mallikarjunswamy B.Hiremath, learned counsel for petitioners at outset fairly submitted, in view of arrest of petitioners no.1 to 3 (accused no.2 to 4) on 12.02.2025, petition for anticipatory bail by them would not survive for consideration and may be dismissed as such. It was submitted, petition was therefore confined only insofar as petitioners 4 and 5 i.e. accused no.5 and 6 (petitioners).

3. It was submitted, petitioners i.e., Nusrath Banu Hyderabad was a 36 years old homemaker and permanent resident of Hubballi and Nikhatara Bhadrapur, a 26 years old homemaker and permanent resident of Hubballi and law NC: 2025:KHC-D:3724 abiding citizens. It was submitted, though they had not committed any offences, they apprehended arrest in view of registration of Crime no.2/2025 (supra) wherein they were arraigned as accused no.5 and 6, only due to fact that they belonged to family of accused no.1 and were sisters-in-law of deceased, even though after marriage, they were residing separately.

4. Even otherwise, prosecution case was based on complaint dated 20.01.2025, filed by Haleema Choudhari w/o Abdul Rahim, stating that her daughter Kousar Batanvale (victim) was married to Sadiq Ali (accused no.1) on 09.05.2018. After marriage, her daughter went to matrimonial home at Byali Plots, Hubballi along accused and her parents-in-law and that her sisters-in-law were visiting it frequently. Initially they were on good terms with victim. Later, they began ill-treating her even for flimsy reasons. And whenever, victim informed her parents about it, they would advise her to adjust and proceed.

5. It was further stated, at that time, accused no.1 was working at Goa and came home once a week. Taking note NC: 2025:KHC-D:3724 of same, her parents-in-law started ill-treating her again with repeated demands for dowry. About four months, when victim told complainant that her husband and his family members were harassing her, which was resolved with intervention of elders. After her parents-in-law assured that they will look after her well, victim was sent to matrimonial home on 19.01.2025. But at 5:30 p.m. on 20.01.2025, one Amir informed victim's brother that she had tried to commit suicide and was taken to Vivekananda Hospital for treatment. When complainant rushed to Hospital, she was kept in ICU. Complainant noticed strangulation marks on her neck. Due to injury to her neck, she was unable to talk. Alleging that victim's husband, parents-in-law and sisters-in-law ill-treated and assaulted victim with demand for dowry, both physically and mentally and abetted her suicide. Complaint was registered as Crime no.2/2025 against her husband, parents-in-law and sisters-in-law.

6. At outset, petitioners base their apprehension of their arrest in view of registration of above mentioned crime. It was submitted petitioners arraigned as accused no.5 and 6 were sisters-in-law of deceased, who after their marriage, were residing separately with their respective husbands. And NC: 2025:KHC-D:3724 complaint did not mention any specific overt-acts by petitioners herein. Further, fact that victim bore three children would establish cordial relationship between victim and her husband. It was further submitted victim was taken to hospital for treatment by accused no.1, would substantiate same. Moreover, petitioners were women, therefore their implication for revenge. Under above circumstances, prayed for grant of bail on any conditions, by undertaking to abide by them.

7. On other hand, Smt.Girija S. Hiremath, learned HCGP for respondent opposed petition. It was submitted, admittedly victim died within seven years from date of marriage attracting presumption under Section 80 of BNS about death of victim as dowry death. It was further submitted accused were alleged to have committed offences under Sections 85, 115 (2), 352 read with Section 3 (5) of BNS read with Section 4 of DP Act. It was submitted there were specific allegations about harassment with demand for dowry, which victim had shared with complainant and there was also reconciliation before elders. It was submitted matter was at stage of investigation and in case of bail is granted, they would NC: 2025:KHC-D:3724 hamper investigation as it was in progress. On above grounds sought for rejection of bail.

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

9. In view of arrest of petitioners no.1 to 3 (accused no.2 to 4), during pendency of this petition and petition for anticipatory bail surviving only insofar as petitioners no.4 and 5, only point that arises for consideration is:

"Whether petitioners no.4 and 5 (accused no.5 and 6) are entitled for anticipatory bail with conditions?"

10. At outset, petitioners' apprehension of imminent arrest for non-bailable offences is in view of registration of Crime no.2/2025 by Hubballi-Dharwad City Women Police Station, wherein they are

named as accused no.5 and 6.

11. Offences alleged therein are Cruelty under Section 85 of BNS punishable with imprisonment upto 3 years; Voluntarily causing hurt under Section 115 (2) of BNS punishable with imprisonment upto 1 year; Insult with intent to provoke breach of peace under Section 352 of BNS punishable NC: 2025:KHC-D:3724 with imprisonment upto 2 years and with common intention under Section 3 (5) of BNS apart from Demand for Dowry under Section 4 of DP Act punishable with imprisonment upto 2 years.

12. Petitioners are also seeking anticipatory bail insofar as offence of Dowry Death under Section 80 of BNS punishable with imprisonment from 7 years upto for life. Though nature of offences mentioned in FIR would be non-heinous, nature of offence under Section 80 of BNS would be grave.

13. But, petitioners herein were married sisters-in-law of victim residing separately with their respective husbands. Except general allegations about harassment/ill-treatment with Demand for Dowry by accused, there are no specific over-acts insofar as petitioners. None of offences alleged are punishable with death or imprisonment for life. Prosecution has not denied or disputed petitioners' assertion that there were no criminal antecedents and about petitioners being permanent residents of Hubballi.

14. It is observed in several cases that there would a tendency of bereaved family of victim implicating all members NC: 2025:KHC-D:3724 of family of victim's husband more in order to assuage sentiments of victim's family. Under above circumstances and as concerns of prosecution can be met by imposing appropriate conditions. Thus, point for consideration is answered in affirmative. Hence, following:

ORDER Petition insofar as petitioners no.1 to 3 i.e. accused no.2 to 4 is dismissed as infructuous.

While petition insofar as accused no.5 and 6 i.e. Petitioners no.4 and 5 are allowed. Petitioners - accused no.5 and 6 shall be enlarged on bail, in case of arrest in Crime no.2/2025 by Hubballi-Dharwad City Women Police Station for offences punishable under Sections 80, 85, 115 (2), 352 read with Section 3 (5) of BNS and Section 4 of DP Act, subject to following conditions:

a) Petitioners - accused no.5 and 6 shall appear before Investigating Officer within

15 days from date of this order and execute a personal bond in a sum of Rs.1,00,000/- each with one surety for likesum.

b) They shall appear before Investigating Officer for purpose of investigation as and

- 10 -

NC: 2025:KHC-D:3724

when required and co-operate with
investigation.

c) They shall not attempt to contact,

threaten or intimidate victim or tamper / influence any other prosecution witnesses, either directly or indirectly.

d) They shall not indulge in any criminal activities.

e) They shall forthwith inform any change of their residence to Investigating Officer.

f) They shall attend trial regularly.

g) Observations made herein are on prima facie consideration for purposes of this order and shall not bind Trial Court.

SD/-

(RAVI V.HOSMANI) JUDGE EM CT:PA