

# Salma @ Umme Salma C vs State Of Karnataka on 3 September, 2020

**Author: K.Natarajan**

**Bench: K.Natarajan**

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 03RD DAY OF SEPTEMBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION No.3077/2020

C/W. CRIMINAL PETITION No.3081/2020

IN CRIMINAL PETITION No.3077/2020

BETWEEN:

1. SALMA @ UMME SALMA C  
AGED ABOUT 27 YEARS,  
D/O C ABDUL GAFOOR  
NO.365/2 C R S HOUSE  
RAJIVGANDHI MAIN ROAD,  
NEAR EXTENSION BUS STOP  
K R PURAM  
BANGALORE NORTH  
BANGALORE-560 036.
2. SAMMAN @ SALMAN SIDDIQUI MOHAMMED  
AGED ABOUT 29 YEARS,  
S/O MOHAMOOD MOHAMMED  
21-531 EHIYALI STREET  
PNM HIGH SCHOOL ROAD,  
NELLORE  
ANDHRA PRADESH-524 001

... PETITIONERS

(BY SMT. SOPHIYA, ADV.,  
FOR SRI KAMALUDDIN, ADV.,)

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AND:

STATE OF KARNATAKA  
BY MULBAGAL TOWN POLICE STATION  
REPRESENTED BY  
STATE PUBLIC PROSECUTOR  
HIGH COURT OF KARNATAKA  
BENGALURU - 560 001.

... RESPONDENT

(SRI RENUKARADHYA R.D., H.C.G.P.)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 OF CR.P.C. PRAYING TO ENLARGE THE PETITIONERS ON BAIL IN THE EVENT OF THEIR ARREST IN CRIME NO.63/2020 OF MULBAGAL TOWN POLICE STATION, KOLAR FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 498-A, 304-B, 506 AND 34 OF IPC ALONG WITH SECTIONS 3 AND 4 OF DOWRY PROHIBITION ACT.

IN CRIMINAL PETITION No.3081/2020

BETWEEN:

1. AYESHA @ C AYESHA  
AGED ABOUT 46 YEARS,  
W/O. C ABDUL GAFOOR,  
NO. 365/2, CRS HOUSE,  
RAJIVGANDHI MAIN ROAD,  
NEAR EXTENSION BUS STOP,  
KR PURAM,  
BENGALURU NORTH,  
BENGALURU-560036
2. UMAR @ C Md UMMAR  
AGED ABOUT 20 YEARS

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S/O. C ABDUL GAFOOR,  
NO. 365/2, CRS HOUSE,  
RAJIVGANDHI MAIN ROAD,  
NEAR EXTENSION BUS STOP,  
KR PURAM,  
BENGALURU NORTH,  
BENGALURU - 560 036.

... PETITIONERS

(BY SMT. SOPHIYA, ADV.,  
FOR SRI KAMALUDDIN, ADV.,)

AND:

STATE OF KARNATAKA  
BY MULBAGAL TOWN POLICE STATION,  
REP BY STATE PUBLIC PROSECUTOR,  
HIGH COURT OF KARNATAKA,  
BENGALURU - 560 001.

... RESPONDENT

(SRI RENUKARADHYA R.D., H.C.G.P.)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 OF CR.P.C. PRAYING TO ENLARGE THE PETITIONERS ON BAIL IN THE EVENT OF THEIR ARREST IN CRIME NO.63/2020 OF MULBAGAL TOWN POLICE STATION, KOLAR FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 498-A, 304-B, 506 AND 34 OF IPC ALONG WITH SECTIONS 3 AND 4 OF DOWRY PROHIBITION ACT.

THESE CRIMINAL PETITIONS COMING ON FOR ORDERS THROUGH VIDEO CONFERENCING, THIS DAY THE COURT MADE THE FOLLOWING:

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#### ORDER

Petitioners in Crl.P.No.3077/2020 are accused Nos.4 and 5 and the petitioners in Crl.P.No.3081/2020 are accused Nos.2 and 3 have filed the petitions under Section 438 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for granting anticipatory bail in Crime No.63/2020 registered by the Mulbagal Town Police Station for the offences punishable under Sections 498-A, 304-B, 506 read with Section 34 of Indian Penal Code (for short 'IPC') and Sections 3 and 4 of Dowry Prohibition Act,1961 (for short 'D.P. Act').

2. Heard the arguments of learned counsel for the petitioners and learned High Court Government Pleader for the respondent - State.

3. The case of the prosecution is that on the complaint of Nayazulla Khan-the father of the deceased, the Mulbagal town Police registered the case against the petitioners. It is alleged that the daughter of the complainant Thasmiya Kanam (hereinafter referred to as deceased) married with accused No.1-Suheab Alias Rabbani on 10.06.2019. At the time of marriage, he gave Rs.10,00,000/- as cash and 250 grams gold. After the marriage, his daughter resided in the house of the petitioners. These petitioners are said to have harassed his daughter for bringing additional dowry. His daughter came to his house for Ramzan festival and when she contacted accused No.1-her husband to come back to matrimonial house, at that time, accused No.1 told her not to come back without bringing additional dowry. Due to which, his daughter committed suicide in his house on 07.06.2020. After registering the case, the Police arrested accused No.1 and he was remanded to the Judicial Custody. The Police

are making hectic effort to arrest these petitioners for having committed non-bailable offences. Hence, they approached the Sessions Judge, Kolar for granting anticipatory bail which came to be rejected. Hence, they are before this Court.

4. Learned counsel appearing for the petitioners has contended that a false case has been registered against these petitioners. They have been falsely implicated with accused No.1. There is no specific allegation against these petitioners in order to show that they have demanded dowry and harassed the deceased. The deceased committed suicide in her parents' house. The main accused-the husband of the deceased has been granted bail by the Co-ordinate bench of this Court on 02.09.2020 in Crl.P.No.3541/2020. The allegation made against these petitioners are similar to that of the accused No.1 who has been granted bail. Hence, on the ground of parity, these petitioners are entitled for bail. They are ready to abide by any conditions imposed by this Court. Hence, prayed for granting bail.

5. Learned High Court Government Pleader seriously objected the bail petition and contended that these petitioners are required for custodial interrogation. Co- accused has been granted bail under Section 439 of Cr.P.C. Hence, prayed for dismissing the bail petition.

6. Upon hearing the arguments and on perusal of the records, it goes to show that the deceased married accused No.1-Suheab Alias Rabbani on 10.06.2019 and she was resided along with these petitioners and accused No.1 in the matrimonial home. Subsequently, she went to her parents' house for Ramzan festival. But, committed suicide in her parents' house on 07.06.2020. The allegation made in the complaint is that, at the time of marriage, the complainant gave Rs.10,00,000/- cash and 250 grams gold and spent Rs.2,00,000/- for clothes. Subsequently, the petitioners used to harass his daughter and prior to the incident, his daughter contacted accused No.1-her husband to go back to her matrimonial home. For that accused No.1 is said to have told that she should bring additional dowry, otherwise, she should not come back. This allegation goes against accused No.1-her husband who was already granted bail by the Co-ordinate Bench of this Court in Crl.P.No.3541/2020 dated 02.09.2020. The allegation made against these petitioners are not serious to that of the allegation made against accused No.1. That apart, the daughter of the complainant committed suicide in her parents' house. The investigation is still under progress. The Investigating Officer still required to collect evidence against these petitioners. The alleged offence is not punishable with death or imprisonment for life. Some of the petitioners are women and other family members. Therefore, considering the facts and circumstances of the case, if bail is granted by imposing certain stringent conditions, no prejudice would be caused to the case of the prosecution. Hence, the following:

ORDER Both Criminal Petition Nos.3077 of 2020 and 3081 of 2020 are allowed.

The respondent-Mulbagal town Police, Kolar District is directed to release accused Nos.2 to 5 on bail in the event of their arrest in Crime No.63/2020 for the offences punishable under Sections 498-A, 304-B, 506 and Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act, subject to the following conditions:

- i) Petitioners shall execute a personal bond for a sum of Rs.50,000/- (Rupees fifty thousand only) each with a surety for the likesum to the satisfaction of the Investigating Officer/Committal Court;
- ii) Petitioners shall themselves surrender before the Investigating Officer within 15 days from the receipt of the copy of the order of this Court;
- iii) Petitioners shall not directly or indirectly tamper with any of the prosecution witnesses;
- iv) Petitioners shall be deemed custody for the purpose of any recovery under Section 27 of the Indian Evidence Act, 1872; and
- v) Petitioners shall appear before the Investigating Officer as and when called for the purpose of investigation.

Sd/-

JUDGE GBB