

Masoodh Pasha @ Masood Pasha vs State Of Karnataka on 12 August, 2024

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NC: 2024:KHC:32290
CRL.P No. 6303 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 12TH DAY OF AUGUST, 2024
BEFORE
THE HON'BLE MR JUSTICE S RACHAIAH
CRIMINAL PETITION NO. 6303 OF 2024

BETWEEN:

MASOODH PASHA @ MASOOD PASHA
S/O RASHEED
AGED ABOUT 30 YEARS
R/AT C.RAHEEM COMPOUND
BANGARPET TOWN
KOLAR DISTRICT - 563 114.
(NOW IN JUDICIAL CUSTODY)

...PETITIONER

(BY SRI. S BALAKRISHNAN, ADVOCATE)

AND:

STATE OF KARNATAKA
BY BANGARPET POLICE STATION
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BANGALORE - 560 001.

Digitally
signed by
NARAYANA
UMA
Location:
HIGH COURT
OF
KARNATAKA

...RESPONDENT

(BY SMT. SOWMYA R, HCGP)

THIS CRL.P FILED U/S 439 CR.PC PRAYING TO ORDER TO
ENLARGE HIM ON BAIL IN C.C.NO.1668/2024 (ARISING OUT
OF CRIME NO.52/2024 ON THE FILE OF THE BANGARPET P.S)
FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 498-A, 304-
B R/W SECTION 34 OF IPC PENDING ON THE FILE OF THE
PRINCIPAL CIVIL JUDGE AND JMFC COURT, BANGARPET KOLAR
DISTRICT.

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

CORAM: HON'BLE MR JUSTICE S RACHAIAH

ORAL ORDER

1. Heard Sri.S.Balakrishnan, learned counsel for the petitioner and Smt.Sowmya.R, learned High Court Government Pleader for the respondent - State.

2. The petitioner / Accused No.1 in Crime No.52/2024 of respondent - Police for the offences punishable under Sections 143, 498-A, 304-B, 302 r/w 149 of Indian Penal Code (for short 'IPC') and also under Sections 3 and 4 of Dowry Prohibition Act (for short 'D.P Act') is before this Court under Section 439 of the Code of Criminal Procedure (for short 'Cr.P.C.') seeking for grant of bail.

Brief facts of the case are as under:-

3. It is the case of the prosecution that on 13.02.2024 around 1.00 p.m., the complainant Nazeer Ahmed lodged a complaint stating that, on 05.01.2009, the marriage of his daughter has been performed with the petitioner herein. At the time of marriage, dowry was given in the form of gold jewellery and also cash etc. After marriage, his daughter started residing NC: 2024:KHC:32290 with her in-laws house. During her stay in the said house, she was being harassed both physically and mentally and she was being demanded to bring dowry in the form of cash. In spite of panchayat having been held on several occasions, it was not pacified and they did not stop demanding the dowry. Such being the fact, on 12.02.2024 around 8.00 p.m., when the complainant called his daughter she spoke with him nicely, however, at 12.00 in the midnight, the maternal uncle of the deceased Rasheed called the complainant and informed him that his daughter had committed suicide. He went to the house of the deceased and heard that the dead body of his daughter was in hospital and the petitioner and in-laws did not give reasons for her suicide. Therefore, he lodged a complaint against all the family members including the petitioner herein. A case came to be registered for the offences punishable under Sections 143, 498-A, 304B, 302 r/w 149 of IPC and also under Sections 3 and 4 of the Dowry Prohibition Act. After conducting the investigation, submitted the charge sheet. The offence punishable under Section 302 of IPC has been deleted and the rest of the offences were continued in the said charge sheet.

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4. It is the submission of the learned counsel for the petitioner that the allegation made in the complaint is absurd and bald. On reading the entire complaint, except omnibus allegations made against all the accused including the petitioner, no specific overt-act has been attributed against the

petitioner herein.

5. It is further submitted that the other accused who are similarly placed as that of the petitioner herein has been enlarged on bail by the Trial Court.

6. It is further submitted that the alleged offence which is punishable under Section 304-B of IPC is neither punishable with death nor imprisonment for life and the petitioner is a permanent resident of Bangarpet. Therefore, the petitioner may be enlarged on bail by imposing suitable conditions and he will abide the conditions imposed by this Court. Making such submissions, the learned counsel for the petitioner prays to allow the petition.

7. Per contra, the learned High Court Government Pleader for the respondent - State vehemently opposed the said submission and submitted that the Trial Court has granted NC: 2024:KHC:32290 bail to the other accused who are the in-laws of the deceased. Further, she submitted that since the petitioner being the husband of the deceased, in spite of taking care of her in order to discharge the material obligations, he insisted the deceased to bring dowry and also harassed her in one or the other pretext for not having brought the dowry. Consequently, the deceased committed suicide.

8. It is further submitted that the death has occurred within seven years from the date of marriage and there is a presumption under Section 113(b) of the Indian Evidence Act. The deceased committed suicide in her matrimonial house, as such, the prosecution has filed the charge sheet. Prima-facie, the case is made out against the petitioner herein in respect of offences stated supra, therefore, the bail application of the petitioner may be rejected and his custody may be continued till disposal of the case. Making such submissions, the learned HCPG prays to dismiss the petition.

9. After having heard the learned counsel for the respective parties and also perused the averments of the charge sheet and also the complaint, it appears from the record NC: 2024:KHC:32290 that the marriage of the petitioner and the deceased had taken place on 05.01.2019. The couple had two children. The deceased was not being treated properly by her in-laws and the petitioner herein and she was being demanded to bring additional dowry in the form of cash. As she could not bring dowry, she was harassed by all the family members including the petitioner. As per the submission of the learned counsel for the petitioner, the other accused who are in-laws have already been granted bail by the Trial Court for the offences stated supra and moreover, though initially the complaint was filed and the case was registered in respect of the offence under Section 302 of IPC, subsequent to the charge sheet, it has been deleted. Having regard to the facts and circumstances of the case, it is appropriate to grant him bail by imposing suitable conditions.

10. Hence I proceed to pass the following ORDER

i) The Criminal Petition is allowed.

ii) The petitioner is ordered to be enlarged on bail in Crime No.52/2024 of the respondent - Police Station on executing a personal bond for a sum of Rs.1,00,000/-

NC: 2024:KHC:32290 (Rupees One lakh only) with one surety for the likesum to the satisfaction of the Trial Court, subject to the following conditions:

- a) The petitioner shall not threaten the prosecution witnesses and shall not hamper with the proceedings of the Court.
- b) The petitioner shall appear before the Trial Court on all dates of hearing without fail. In case, if the petitioner violates any of the bail conditions as stated above, the prosecution will be at liberty to seek for cancellation of bail.

Sd/-

(S RACHAIAH) JUDGE UN