

Sri.Manjunath S/O Ningappa Yeddalli vs The State Of Karnataka on 6 July, 2020

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IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS IS THE 6TH DAY OF JULY , 2020

BEFORE

THE HON'BLE MR. JUSTICE ASHOK G NIJAGANNAVAR

CRIMINAL PETITION NO.100620/2020

BETWEEN:

1. SRI MANJUNATH S/O NINGAPPA YEDDALLI
AGE: 25 YEARS , OCC: COOLIE,
R/O: BASAPUR, TQ & DIST: KOPPAL.
2. SRI NINGAPPA S/O THIMAPPA YEDDALLI
AGE: 49 YEARS , OCC: COOLIE,
R/O: BASAPUR, TQ & DIST: KOPPAL.
3. SMT.NAGAVVA @ NAGAMMA
W/O. NINGAPPA YEDDALLI
AGE: 40 YEARS , OCC: COOLIE,
R/O: BASAPUR, TQ & DIST: KOPPAL.
4. SRI KANAKA @ KANAKARAYA
S/O. NINGAPPA YEDDALLI
AGE: 20 YEARS , OCC: COOLIE,
R/O: BASAPUR, TQ & DIST: KOPPAL.

... PETITIONERS

(BY SRI SANTOSH B MALAGODAR, ADVOCATE.)

AND:

THE STATE OF KARNATAKA
THROUGH PSI,
MUNIRABAD POLICE STATION,
REPRESENTED BY ITS

ADDL. S T A T E P U B L I C P R O S E C U T O R,
S P P O F F I C E,
H I G H C O U R T O F K A R N A T A K A,
D H A R W A D .

... R E S P O N D E N T

(B Y S R I P R A V E E N K . U P P A R , H C G P .)

T H I S C R I M I N A L P E T I T I O N I S F I L E D U N D E R
S E C T I O N 4 3 9 O F C R I M I N A L P R O C E D U R E C O D E ,
P R A Y I N G T O E N L A R G E T H E P E T I T I O N E R S / A C C U S E D
N O S . 1 T O 4 O N B A I L O N S U C H T E R M S A N D
C O N D I T I O N S A S D E E M F I T I N M U N I R A B A D P . S . C R I M E
N O . 1 7 5 / 2 0 1 9 F O R T H E O F F E N C E S P U N I S H A B L E
U N D E R S E C T I O N S 4 9 8 A , 3 0 4 (B) R E A D W I T H S E C T I O N
1 4 9 O F I P C A N D S E C T I O N S 3 & 4 O F D O W R Y
P R O H I B I T I O N A C T , 1 9 6 1 , I N S O F A R A S P R E S E N T
P E T I T I O N E R S / A C C U S E D N O S . 1 T O 4 A R E C O N C E R N E D ,
E T C . , .

T H I S P E T I T I O N C O M I N G O N F O R O R D E R S T H I S
D A Y , T H E C O U R T M A D E T H E F O L L O W I N G :

O R D E R

This petition is filed by accused Nos.1 to 4, under section 439 Cr.P.C., seeking bail in Crime No.175/2019 of Munirabad P.S., registered for the offences punishable under sections 498A, 304B read with section 149 of IPC.

2. The prosecution case is that on the complaint filed by the father of the victim, the police have registered the case. The allegations are that in the year 2015 his daughter Laxmi had married accused No.1, but the said accused and his family members frequently harassed his daughter for getting dowry and she was sent to her parents house. On 14.9.2019 morning at 6.30 a.m., the complainant received information about have caused dowry harassment and have committed the murder of his daughter.

3. In pursuance of the said complaint, the case was registered for the offences punishable under sections 498A, 304B read with section 149 of IPC and accused Nos.1 to 4 are arrested on 16.9.2019. Since then they are in judicial custody. The bail petition filed by them before the Sessions Court is rejected.

4. The learned counsel for the petitioners has submitted that a memo will be filed in the office for not pressing the bail petition for the petitioner No.1/accused No.1, who is the husband of the

deceased victim.

5. Heard the learned counsel for the petitioners and the learned HCGP for the respondent State. Perused the charge sheet records.

6. It is the submission of the learned counsel for the petitioners that the complainant has falsely implicated 8 persons by making frivolous allegations that they have caused harassment. But later, three accused persons have been given up. Thus, it is evident that the complainant has tried to rope-in all the family members of the accused with the vindictive motive. The investigation is completed. Due to the detention they have been put to hardship.

7. Per contra, the learned HCGP submitted that the death of the victim is within a period of seven years from the date of marriage. There is clear allegation about dowry harassment and torture given by the husband and other family members of the husband. In the event of granting bail, victim's family members are likely to be harassed and threatened. Thus, the bail petition deserves to be rejected.

8. Having regard to the submission made by the learned counsel for the petitioners and the learned HCGP, this Court has gone through the charge sheet records. As could be seen, there are two versions by the complainant, who is the father of the deceased/victim. In the first complaint dated 14.9.2019, the allegations are made against eight persons, later on, three persons have been given up. In the supplementary statement the complainant has given a different version. It is pertinent to note that in the first complaint there was a specific allegation that the accused persons have tortured for the sake of getting dowry and have committed the murder. But in the supplementary statement it is stated that the deceased/victim has committed suicide on account of the harassment caused by them for the sake of dowry and for other reasons. These circumstances pointed out by the counsel make out doubtful circumstances about involvement of accused Nos.2 to 4/petitioners No.2 to 4. At this stage it is needless to make an elaborate discussion or to give any specific finding as the same is not permissible while considering the bail application.

9. In a decision in Preeti Gupta and another vs. State of Jharkhand and another, reported in (2010) 7 SCC 667, the Hon'ble Supreme Court has observed as under:

"32. It is a matter of common experience that most of these complaints under section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern."

"35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cau

tious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection."

10. It is well settled principle that the gravity of the offences alleged alone cannot be a ground to reject the bail. In a decision reported in 2005 Criminal Law Journal 883, between Jayendra Saraswathi S. Samigal vs. State of Tamil Nadu, the Hon'ble Apex Court has observed as under:

"The considerations which normally weigh with the Court in granting bail in non-bailable offences are - the nature and seriousness of offence; the character of the evidence; circumstances which are peculiar to the accused; a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the State and other similar factors which may be relevant in the facts and circumstances of the case."

11. In the present case no grounds are made out to show that the presence of the accused is required for custodial interrogation. The main objection of the prosecution is that in the event of granting bail, the accused/petitioners are likely to cause threat to the complainant and his family members. The said objection may be set right by imposing stringent conditions.

12. Considering the facts and circumstances of the case and submission of the counsel, this Court is of the view there are valid grounds for granting bail, subject to certain terms and conditions. Hence, I proceed to pass the following:

ORDER The petition filed under section 439 of Cr.P.C. is dismissed in respect of accused No.1/petitioner No.1, as not pressed.

The petition filed under section 439 of Cr.P.C., is allowed in respect of accused Nos.2 to 4/petitioners Nos.2 to 4.

Consequently, the petitioners No.2 to 4/ accused Nos.2 to 4 shall be released on bail in Crime No.175/2019 of Munirabad P.S., subject to the following conditions.

i) The petitioners No.2 to 4 shall execute a personal bond for a sum of Rs.1,00,000/- (one lakh rupees only) each with two sureties for the like sum to the satisfaction of the jurisdictional Court.

ii) The petitioners/accused Nos.2 to 4 shall not indulge in tampering the prosecution witnesses.

iii) The petitioners/accused Nos.2 to 4 shall not leave the jurisdiction of the trial Court without prior permission, till the disposal of the case.

iv) The petitioners/accused Nos.2 to 4 shall mark their attendance before the concerned police station on the first Sunday of every month between 10.00 a.m. and 5.00 p.m., till conclusion of the trial.

If the petitioners/accused Nos.2 to 4 violate any of the conditions, the bail order automatically stands cancelled.

SD/-

JUDGE M r k/ -