

# Manjunath Shivappa Hubballi vs State Of Karnataka on 10 November, 2022

**Author: Shivashankar Amarannavar**

**Bench: Shivashankar Amarannavar**

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CRL.P No. 103174 of 2022

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH  
DATED THIS THE 10TH DAY OF NOVEMBER 2022  
BEFORE  
THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR  
CRIMINAL PETITION NO. 103174 OF 2022

BETWEEN:

MANJUNATH SHIVAPPA HUBBALLI  
AGE. 28 YEARS, OCC. PRIVATE WORK,  
R/O. HIREHARAKUNI VILLAGE,  
KUNDAGOL TLAK, DHARWAD-581113

(NOW IN JUDICIAL CUSTODY)

...PETITIONER

(BY SRI. R M JAVED, ADVOCATE)

AND:

STATE OF KARNATAKA  
THROUGH KUNDAGOL P.S.  
REP BY STATE PUBLIC PROSECUTOR  
HIGH COURT OF KARNATAKA  
BENCH AT DHARWAD  
DHARWAD-581105

...RESPONDENT

(BY SRI. PRASHANTH V. MOGALI., ADVOCATE)

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.,  
SEEKING TO ALLOW THE PETITION AND ENLARGE THE  
PETITIONER/ACCUSED NO.1 ON BAIL IN CONNECTION WITH  
KUNDAGOL P.S. CRIME NO.44/2022 FOR THE ALLEGED OFFENCES  
PUNISHABLE U/S 143, 498A, 304B, 306, 149 OF IPC AND  
SECTION 3 AND 4 OF DOWRY PROHIBITION ACT.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THIS  
DAY, THE COURT MADE THE FOLLOWING:

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CRL.P No. 103174 of 2022

ORDER

This petition is filed by accused No.1 under Section 439 of The Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.', for brevity) seeking bail in Crime No.44/2022 of Kundagol Police Station registered for the offences punishable under Sections 143, 498A, 304B and 306 read with Section 149 of The Indian Penal Code (hereinafter referred to as the 'IPC', for brevity) and Sections 3 and 4 of the Dowry Prohibition Act (hereinafter referred to as 'DP Act', for brevity).

2. The case of the prosecution is that, one Smt. Shakuntala, wife of Putappa Itagi, resident of Savanur, filed complaint stating that, her daughter Pooja(deceased) was given in marriage to the petitioner/accused No.1 three years prior to lodging the complaint. Their daughter was good for a period of one year. But thereafter, the relationship of the petitioner/accused No.1 and their daughter was not cordial because accused No.1 was only fond of money, gold and vehicles. They advised the petitioner/accused No.1 but he was not heeding to their requests. Eight months prior to the filing of the complaint, at Gabbur-Hubli, at the house of her brother, the complainant gave Rs.1,50,000/- and 2 tola of gold but the accused was not satisfied. The petitioner/accused No.1 was having affair with the wife of his elder brother(accused No.2). The petitioner/accused No.1 was informed and advised to refrain from said things but the petitioner had not heeded to their requests and was causing harassment to her daughter. That on 03.04.2022 at 10:00am one Kumargouda made a phone call and informed them that their daughter is no more and the complainant after seeing the same, filed the complaint that her daughter has been killed by the accused persons. The said complaint came to be registered in Crime No.44/2022 of Kundagol Police Station for the offences punishable under Sections 143, 498A and 302 read with Section 149 of IPC. The petitioner/accused No.1 came to be arrested on 05.04.2022 and he is in judicial custody. The Police after completing investigation filed charge sheet against accused Nos.1 to 5 for the offences punishable under Sections 143, 498A, 304B and 306 read with Section 149 of IPC and Sections 3 and 4 of DP Act. The petitioner filed Criminal Miscellaneous No.5361/2022 seeking bail and the same came to be rejected by the learned V Additional District and Sessions Judge, Dharwad, sitting at Hubli by order dated 11.08.2022. Therefore, the petitioner is before this Court seeking bail.

3. Heard the arguments of the learned counsel appearing for the petitioner and the learned High Court Government Pleader for the respondent- State.

4. The learned counsel for the petitioner would contend that, FIR came to be registered for an offence under Section 302 of IPC but the charge sheet came to be filed for an offence under Section 306 of IPC. It is his further submission that, accused Nos.2 and 5 have been granted anticipatory bail and accused Nos.3 and 4 have been granted bail by the Sessions Court. It is his further submission that the deceased had not conceived even after 3 years of marriage and therefore, she

was psychologically depressed and she was suspecting that her husband/accused No.1 was having illicit relationship with accused No.5 i.e. the wife of his brother-accused No.2. It is his further submission that the petitioner is not responsible for the suicide committed by the deceased. As charge sheet is filed, the petitioner is not required for custodial interrogation. With this, he prayed to allow the petition.

5. Per contra, learned High Court Government Pleader would contend that, the petitioner used to harass the deceased demanding dowry and he has also received dowry even after marriage. It is his further submission that, deceased committed suicide within 7 years of marriage with the petitioner and death of the pooja is a dowry death. It is his further submission that, charge sheet material shows prima facie case against the petitioner for the offences alleged against him. If the petitioner is granted bail, he will threaten the complainant and other prosecution witnesses. With this, he prayed to reject the petition.

6. Having regard to the submission made by the learned counsel for the petitioner and the learned High Court Government Pleader, this Court has gone through the charge sheet records.

7. The marriage of this petitioner with Pooja(deceased) has taken place on 28.04.2019. The death of Pooja has taken place on 03.04.2022. In the complaint it is alleged that, the accused have committed murder of Pooja but after investigation, charge sheet has been filed stating that, Pooja committed suicide. There is allegation in the complaint that, the accused were demanding dowry and harassing the deceased. Learned counsel for the petitioner submits that, as the deceased had not conceived even after 3 years of her marriage and as she was suspecting illicit relation of her husband with accused No.5, she was psychologically depressed and therefore she might have committed suicide. Whether this petitioner/accused No.1 has harassed the deceased-Pooja for dowry and due to said harassment, she committed suicide, is a matter of trial. Charge sheet is filed and the petitioner is not required for custodial interrogation.

8. The main apprehension of the prosecution is that if the petitioner is granted bail, he will threaten the complainant and other prosecution witnesses, can be met with by imposing stringent conditions.

9. In the facts and circumstances of the case and submission of the counsel, this Court is of the view that 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 allowed. Consequently, the petitioner/accused No.1 shall be released on bail in Crime No.44/2022 of Kundagol Police Station subject to the following conditions:

i) The petitioner/accused No.1 shall execute a personal bond for a sum of Rs.1,00,000/-

(Rupees one lakh only) with one surety for the likesum to the satisfaction of the jurisdictional Court.

ii) The petitioner/accused No.1 shall not indulge in tampering the prosecution witnesses.

iii) The petitioner/accused No.1 shall attend the Court on all the dates of hearing unless exempted and co-operate in speedy disposal of the case.

Sd/-

JUDGE kmv