

Ramachandra N Kale S/O Nilakantappa ... vs State Of Karnataka on 11 June, 2021

Author: Shivashankar Amarannavar

Bench: Shivashankar Amarannavar

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IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 11 T H DAY OF JUNE, 2021
BEFORE
THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION NO.101003 OF 2021

BETWEEN
RAMACHANDRA N KALE
S/O NILAKANTAPPA KALE
AGED. 29 YEARS ,OCC: PVT. SERVI CE,
R/O. SHIRAGUPPI VILLAGE,
TQ. HUBBALLI , DI ST. DHARWAD- 580001.

...PETITIONER

(BY SRI.AVINASH M ANGADI, ADV.)

AND
STATE OF KARNATAKA
THROUGH HUBBA LLI RURA L POLICE STATION
REP. BY ITS STATE PUBLIC PROSECUTOR
HIGH COURT OF K ARNATAKA
DHARWAD-580001.

...RESPONDENT

(BY SRI.RAMESH B. CHIGARI , HCGP)

THIS CRIMINAL PETITION IS FILED U/S 439 OF
CR.P.C., SEEKIN G TO ALLOW THI S PETITION AND
ENLARGE THE PETITIONER ON REGULAR BAI L IN CC
NO.173/ 2021 (CRI ME NO.214/ 2020) PENDING ON THE
FILE OF 2ND ADDL. JMFC COURT AT HUBLI ,
REGISTERED BY THE RESPONDENT HUBLI RURA L
POLI CE F OR OFFENCES PUNISHABLE UNDER SECTION
306, 498A , 304B, 201, 34 OF I PC A ND SECTION 3 OF
DP ACT .

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

This petition is filed by accused No.2 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.214/2020(CC No.173/2021) of Hubballi Rural Police Station for the offences punishable under Sections 306, 498A, 304B, 201, 34 of The Indian Penal Code (hereinafter referred to as the 'IPC', for brevity) and Section 3 of Dowry Prohibition Act,1961(hereinafter referred to as 'DP Act').

2. The case of the prosecution is that one Mallesh Gudadappa Talakal, the father of the deceased Netravathi has filed complaint stating that his wife is from Shiraguppi of Hubballi taluk and he had admitted his daughter Netravathi to AGM Engineering College near Varur in the year 2012-2013 and she completed her BE and working at private company in Hosapete and when the complainant asked his daughter about her marriage, she used to avoid him. The deceased Netravathi all of a sudden left complainant's home along with her two wheeler motor cycle bearing number KA 35/4876 and her earnings of Rs.2,50,000/- and joined the petitioner at Shiraguppi village. The complainant came to know about this issue from his wife's relatives in Shiraguppi. The deceased Netravathi had left her parents house without consent and complainant was not happy with Netravathi's decision of joining the petitioner. The complainant came to know that her daughter was marrying with petitioner in the month of June 2020 but he did not attend the marriage of her daughter with petitioner/accused No.2. After marriage, Netravathi used to call her mother and inform her about the ill-treatment meted out by her husband, mother in law Renuka and husband's brother Mahantesh and Husband's sisters Lalita and Mamakka for money, household works. The said persons tortured her mentally and physically but as their daughter married the petitioner without their consent, the complainant did not go to her help. That on 07.11.2020 at about 9 am when the complainant was at home, the brother of complainant's wife called and informed that their daughter died at petitioner's house. Complainant and his wife immediately rushed to the petitioner's house at Shiraguppi where they witnessed the body of their daughter lying at hall. Complainant found some marks over the neck and it is alleged that all the accused have strangled her daughter to death for the sake of dowry and house hold work and they have tried to destroy the evidence. The complainant asked neighbors about the incident, they said that they used to hear some sound of quarrel between Netravathi and other accused and the incident has happened at about 6 am to 6.30 am on 07.11.2020. The said complaint came to be registered in Crime No.214/2020 of Hubballi Rural Police Station for the offences punishable under Sections 302, 498A, 304B, 201, 34 OF IPC and Section 3 OF DP ACT. The Police arrested the petitioner/accused No.2 08.11.2020. After investigation, charge sheet has been filed for the offences punishable under Sections 306, 498A, 304B, 201, 34 of IPC and Section 3 of DP Act. Charge sheet has not been filed for the offence under Section 302 of IPC. The petitioner filed Crl.Misc.No.228/2021 seeking bail and the same came to be rejected by I Addl. District and Sessions Judge, Dharwad sitting at Hubballi by order dated 24.03.2021. Therefore, the petitioner is before this Court seeking bail.

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

4. It is the contention of the learned counsel for the petitioner/accused No.2 that petitioner is innocent and he has not committed any offence as alleged against him and he has been falsely implicated in the case. It is his further submission that the marriage of the deceased Netravati with petitioner/accused No.2 is a love marriage. The deceased Netravathi on her own left her parents house along with two wheeler motor cycle and cash of Rs.2,50,000/- and married petitioner/accused No.2. He further contended that the parents of the deceased Netravati were not happy with her marriage with the petitioner/accused No.2. No complaints have been filed by deceased Netravati prior to the death regarding harassment and ill treatment by the petitioner and other accused demanding dowry. When the deceased Netravati's marriage with the petitioner/accused No.2 is a love marriage and as the parents were not happy with her marriage, there is no question of demanding dowry and asking her to bring dowry from her parents. On going through the averments of the complainant and statement of complainants wife Latha(CW-8) mother of the deceased that they cut off their relation with the deceased Netravati and thought that she is dead for them. Investigation is over, charge sheet has been filed and therefore, the petitioner is not required for any custodial interrogation. The accused No.4/sister of the accused No.2 has been granted with bail by Sessions Judge and accused No.5/another sister of the accused No.2 has been granted with anticipatory bail by this Court. Therefore, on the ground of parity, the petitioner/accused No.2 is also entitled for grant of bail on parity. With this, he prayed for allowing the petition.

5. Per contra, learned High Court Government Pleader has contended that the death of the deceased is within 7 years of marriage and the deceased has committed suicide due to the harassment and ill treatment and demand of dowry by accused. The offence alleged against the petitioner and other accused is a heinous offence. It is his further contention that if the petitioner is granted bail, he will tamper the prosecution witnesses and flee from justice. With this, he prayed to dismiss 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 the deceased Netravati with the petitioner/accused No.2 was a love marriage. The deceased Netravati left her parents house all of a sudden and went to the house of the petitioner along with 2 wheeler vehicle and cash of Rs.2,50,000/- and thereafter, married petitioner/accused No.2. The parents of the deceased Netravati were not happy with the marriage of deceased Netravati with petitioner/accused No.2. The petitioner was an engineering graduate and she was working in Hospete. The parents of the deceased Netravati who were not happy with her marriage with the petitioner/accused No.2 have cut off of their contacts with her deceased daughter Netravati. When the parents have cut off their relationship with deceased Netravati, there is no question of demanding of any dowry and asking the deceased to bring dowry from her parents. On perusal of the complaint and statement of Lath/CW-8-mother of the deceased, they cut off their relationship with deceased Netravati and they thought that she is dead to them. On perusal of the accusation column in the charge sheet, it is stated that on 06.11.2020 at 9 p.m. all the accused again demanded

dowry from the deceased Netravati and gave her mental harassment and her husband/petitioner/accused No.2 slept outside the house and in the midnight, deceased Netravati awakened her husband and asked him to come inside the room for sleeping and he refused and therefore, due to depression she has committed suicide. Whether the act of the accused No.2/petitioner amounts to abetment to commit suicide under Section 107 of IPC has to be ascertained at full pledged trial. There are no criminal antecedents of the petitioner/accused No.2. As the charge sheet has been filed, petitioner is not required for any custodial interrogation. Petitioner is in judicial custody since 08.11.2020. The main objection of the prosecution is that in the event of granting bail, the petitioner/accused No.2 may likely to cause threat to complainant and prosecution witnesses may be set right by imposing some stringent conditions.

8. 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.2 shall be released on bail in Crime No.214/2020 of Hubballi Rural Police Station subject to the following conditions:

i) The petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with one surety for the like sum to the satisfaction of the jurisdictional Court. Due to COVID-19, the petitioner is permitted to furnish surety within two months. If circumstances arise, the jurisdictional Court is permitted to extend the period for furnishing surety.

ii) The petitioner shall not indulge in tampering the prosecution witnesses.

iii) The petitioner shall attend the Court on all dates of hearing unless exempted and co-

operate in speedy disposal of the case.

Sd/-

JUDGE Hmb