

Smt. Gulnaj W/O Liyaqat Alikhan Alias ... vs The State Of Karnataka on 25 May, 2022

Author: K. Natarajan

Bench: K. Natarajan

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 25th DAY OF MAY 2022

BEFORE

THE HON'BLE MR.JUSTICE K. NATARAJAN

CRIMINAL PETITION NO.101449/2022

BETWEEN:

SMT. GULNAJ W/O LIYAQAT ALIKHAN @ BABU
AGE 23 YEARS, OCC. HOUSEHOLD,
R/O KREBHILACHI 577218
TQ CHANNAGIRI DIST DAVANAGERE

.. PETITIONER

(BY SRI CHETAN MUNNOLI, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA
DHARWAD BENCH AT DHARWAD
THROUGH HANAGAL POLICE STATION

.. RESPONDENT

(BY SMT. GIRIJA S. HIREMATH, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C., SEEKING
TO ENLARGE THE PETITIONER/ACCUSED NO.3 ON BAIL IN HANAGAL P.S.
CRIME NO.32/2022 FOR THE ALLEGED OFFENCES PUNISHABLE U/S 363
AND 364A OF IPC.

THIS PETITION COMING ON FOR ORDERS THROUGH PHYSICAL
HEARING/VIDEO CONFERENCING HEARING THIS DAY, THE COURT MADE
THE FOLLOWING:

ORDER

This petition is filed by the petitioner/accused No.3 under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter for brevity referred to as 'Cr.P.C.') for granting bail in Crime No.32/2022 registered by the Hanagal Police for the offences punishable under Sections 363 and 364A of the Indian Penal Code, 1860 (hereinafter for brevity referred to as 'IPC').

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

3. The case of the prosecution is that, on the complaint of one Iqbal Ahamed Uppin, complained to the police on 17.02.2022 alleging that he is living with his wife and children and on 27.02.2022, his son Ayan, the victim, was found missing from the house. On enquiry with Mainuddin Hussainsab Kollari, he stated that some two persons were holding a child in between them and went on motorcycle towards Kanchagar Oni. When they went to Kanchagar Oni, on enquiry, they came to know that some two persons holding a child in between them went on the motorcycle. They could not trace the child. Therefore, a complaint came to be filed for kidnapping the child. After registering the case, the police set a team for tracing the culprits. In the meanwhile, the accused are said to have demanded `5,00,000/- as ransom for releasing the child. The police traced the child and apprehended the accused and the child was found in the custody of accused No.3 at the Darga at Javagal village, Arasikere taluk. Thereafter the petitioner was arrested on 14.03.2022 and he was remanded to judicial custody. Her bail application came to be rejected by the Sessions Judge, Hence, she is before this Court.

4. Learned counsel for the petitioner contended that the petitioner is a woman having two minor children and she is pregnant by five months. Investigation is almost completed and charge-sheet is yet to be filed. She is not aware of kidnapping of the child by her husband and the petitioner is in jail along with her two children. Hence, prayed for granting bail.

5. Per contra, learned High Court Government Pleader seriously objected the bail petition and contended that the petitioner along with her husband and another kidnapped the child and demanded `5,00,000/- as ransom for releasing the child. Investigation is still pending. Hence prayed for dismissing the bail petition.

6. Having heard the arguments of the learned counsel for the parties, perused the records.

7. Admittedly, the child was abducted by accused Nos.1 and 2. It is the husband of this petitioner who kidnapped the child with support of accused No.1, who are stated to have demanded `5,00,000/- as ransom from the complainant for releasing the child. The Police traced the child and rescued the child from the custody of the petitioner. Investigation is still pending and charge sheet is not yet filed. Accused Nos.1 and 2 are already arrested and are in jail. Investigation papers reveal that accused No.1 was the former employee of the complainant and he came to know that the complainant was having money in respect of the profits by selling the mangoes. Therefore, to snatch

the money, he kidnapped the child and demanded ransom for releasing the child. Both accused Nos.1 and 2 are in jail and this petitioner, wife of accused No.1, is having two minor children. She is said to be in jail along with her children. She is also said to be pregnant by 5 months as per the report of the Doctor.

8. Considering these facts, though the investigation is pending but in view of the fact that the minor children of the petitioner are also in the custody of the petitioner in the jail and the main accused are already arrested by the police, therefore, as a special case, by imposing stringent conditions, if bail is granted, no prejudice would be caused to the case of the petitioner.

Accordingly, petition is allowed. The Committal Court is directed to release the petitioner on bail in Crime No.32/2022 subject to the following conditions:

- i. The petitioner shall execute a personal bond for a sum of `2,00,000/- (Rupees two lakh only) with two sureties for the likesum to the satisfaction of the Committal Court.
- ii. The petitioner shall not tamper the prosecution witnesses directly or indirectly.
- iii. The petitioner shall not leave the jurisdiction of the Court without prior permission of this Court.
- iv. The petitioner shall appear before the investigation officer as and when called for, for the purpose of investigation.

If any of the conditions is violated, the prosecution is at liberty to move an application for cancellation of bail.

Sd/-

JUDGE kmv