

Arun Shivayogappa Vali vs State Of Karnataka on 8 November, 2022

Author: Shivashankar Amarannavar

Bench: Shivashankar Amarannavar

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CRL.P No. 103172 of 2022

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 8TH DAY OF NOVEMBER 2022
BEFORE
THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR
CRIMINAL PETITION NO. 103172 OF 2022

BETWEEN:

ARUN SHIVAYOGAPPA VALI
AGE/. 29 YEARS, OCC. COOLIE,
R/O. PURAD ONI, HAVERI-581110
(NOW IN J.C.)

...PETITIONER

(BY SRI. R M JAVED, ADVOCATE)

AND:

STATE OF KARNATAKA
THROUGH HUBLI-DHARWAD CITY WOMEN P.S.
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA BENCH
AT DHARWAD, DHARWD-581105

...RESPONDENT

(BY SRI. PRASHANTH V. MOGALI, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.
SEEKING TO ENLARGE THE ACCUSED NO.2/PETITIONER ON BAIL
IN CONNECTION WITH HUBLI-DHARWAD CITY WOMEN P.S.
CRIME NO.74/2022 FOR THE ALLEGED OFFENCES PUNISHABLE
U/S 498A, 304B, 34 OF IPC.

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

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CRL.P No. 103172 of 2022

ORDER

This petition is filed by the petitioner 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.74/2022 of Hubballi-Dharwad City Women Police Station registered for the offences punishable under Sections 498A, 304B and 34 of The Indian Penal Code (hereinafter referred to as the 'IPC', for brevity). The petitioner is shown as accused No.3 in the FIR and as accused No.2 in the remand application.

2. The case of the prosecution is that, one Mallikarjun Basavenappa Shettar, resident of Savadatti, has filed the complaint stating that, his daughter-Ashwini was given in marriage to accused No.1-Kiran Vali in the month of June 2020 and at the time of marriage, he had given Rs.50,000/- in cash, 50grams of gold and other day to day usable articles. After marriage, his daughter was residing with her husband/accused No.1 at Purad Oni, Haveri and the accused persons had mortgaged gold ornaments of his daughter and were demanding more dowry and were harassing her. The father of the deceased Ashwini and other elders of the village met accused No.1 and requested not to harass his daughter. It is further stated that accused No.1 for his professional work shifted from Haveri to Hubballi and took a rented house at Navanagar and he was residing with his wife Ashwini in that house. It is further stated that accused No.1 was harassing his wife continuously. It is further stated that on 29.09.2022, at about 7:00am accused No.1 made a phone call to the complainant and informed him that his daughter Smt.Ashwini has committed suicide by hanging. The complainant immediately rushed to Navanagar and found his daughter dead. He filed the complaint which came to be registered in Crime No.74/2022 of Hubballi-Dharwad City Women Police Station for the offences punishable under Sections 498A, 304B and 34 of IPC. The petitioner is arrayed as accused No.3 in the FIR. The petitioner came to be arrested on 30.09.2022 and he is remanded to the judicial custody. The petitioner is shown as accused No.2 in the remand application. The petitioner filed Criminal Miscellaneous No.5482/2022 seeking bail and the same came to be rejected by the learned I Additional District and Sessions Judge, Dharwad, sitting at Hubballi, by order dated 17.10.2022. 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 this petitioner is the brother of the husband of the deceased. It is his further submission that, the petitioner was residing in Haveri and

the deceased and his brother/accused No.1 have shifted to Hubballi and were residing in a rented house since 3 months. It is his further submission that, as the deceased and her husband were residing separately in a different place, there is no question of any harassment meted by this petitioner to the deceased. The offences alleged against this petitioner are not punishable with death or imprisonment for life. The petitioner is ready to co-operate with the police in the investigation. As the petitioner is in judicial custody since 30.09.2022, he 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 investigation is in progress. In the remand application, there is specific allegation that, this petitioner along with his mother used to visit the house of the deceased at Navanagar and used to harass the deceased demanding dowry. As investigation is in progress, the petitioner is not entitled for grant of bail. 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 averments of the complaint, FIR, remand application and the order passed by the Sessions Court.

7. The deceased Ashwini was married to the brother of this petitioner i.e. accused No.1. Earlier this petitioner, accused No.1 and deceased Ashwini were residing at Haveri and since last 3 months, prior to the date of filing of the complaint, they had shifted to Hubballi and were residing in a rented premises at Navanagar. There is allegation against this petitioner and his mother that they used to go to the house of the deceased situated at Navanagar and used to harass her. Due to the said harassment, the deceased is alleged to have committed suicide by hanging. What is the cause for committing suicide by the deceased, is a matter of investigation and filing of final report. The petitioner was residing at Haveri and the deceased and accused No.1 were residing at Navanagar, Hubballi. The petitioner is in judicial custody since 30.09.2022 and therefore he is not required for custodial interrogation. The offences alleged against this petitioner are not punishable with death or imprisonment for life. The petitioner has undertaken to co-operate with the Police in the investigation. There are no criminal antecedents of this petitioner.

8. The main apprehension of the prosecution is that, if the petitioner is granted bail, there are chances of he hampering the investigation and tampering the 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 shall be released on bail in Crime No.74/2022 of Hubballi- Dharwad City Women 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 likesum to the satisfaction of the jurisdictional Court.
- ii) The petitioner shall co-operate in the investigation and make himself available for interrogation whenever required.
- iii) The petitioner shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
- iv) The petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

Sd/-

JUDGE kmv