

Shri.Lakshmana S/O Narasappa vs The State Of Karnataka on 18 June, 2020

Author: H.T.Narendra Prasad

Bench: H.T.Narendra Prasad

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IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 18TH DAY OF JUNE, 2020

BEFORE

THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD

CRIMINAL PETITION NO.200263/2020

BETWEEN:

Shri Lakshmana S/o Narasappa
Age: 53 Years, Occ: Labourer
R/o Meerapur Village
Tq. & Dist. Raichur - 584 109

... Petitioner

(By Sri Arunkumar Amargundappa, Advocate)

AND:

The State of Karnataka
Through the PSI
Indapanur P.S.,
Rept. By the Additional State Public Prosecutor
High Court of Karnataka
Kalaburagi Bench - 585 102

... Respondent

(By Sri Mallikarjun Sahukar, HCGP)

This Criminal Petition is filed under Section 439 of Cr.P.C. praying to, allow the bail petition and thereby release the petitioner on bail in S.C.No.143/2019 (Crime No.52/2019) pending on the file of II Additional District and

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Sessions Judge, Raichur for the offences punishable under Sections 498-A, 306, 304 (B) R/w 34 of IPC and Sections 3, 4 and 6 of the D.P. Act, registered by the respondent police.

This petition coming on for Orders this day, the Court made the following:

ORDER

This petition is filed by the petitioner / accused No.2 under Section 439 of Cr.P.C., for grant of bail in Crime No.52/2019 of Idapanur Police Station for the offences punishable under Sections 498-A, 306, 304-B read with Section 34 of IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. Brief facts of the case are that the FIR has been registered against the accused by respondent No.1

- Police on the basis of complaint lodged by one Smt. Sunkamma. The complainant alleged that the deceased Yallamma is her daughter and she was married to accused No.1 on 28.04.2019. At the time of marriage, they have given dowry of Rs.50,000/- with 30 grams gold to accused No.1. It is further alleged that soon after the marriage, deceased started residing with accused No.1 at Meerapur village. Thereafter, accused persons started harassing and ill-treating the deceased to bring more dowry from her parents. When the deceased visited to her maternal home, she informed complainant about ill-treatment by accused persons and demand for dowry. She further alleged that during Moharam festival, deceased came to her maternal home. Thereafter, her husband did not turn up to take her back, however, he asked her over phone to come back home. On 14.09.2019, complainant dropped her daughter in her matrimonial home. It is further alleged that the accused picked up quarrel with her and demanded her to bring dowry and assaulted the deceased. Pursuant to that demand, complainant's son handed over 20 grams of gold to the accused.

3. It is further alleged that on 16.09.2019, they came to know that Yallamma died with injury on her neck and bleeding from nose. Due to harassment of the accused, she has committed suicide. On the basis of her complaint, respondent No.1 - Police have registered FIR on 17.09.2019 against the husband and father-in-law of the deceased Yallamma under Sections 498-A, 306, 304-B read with Section 34 of IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961. Police have filed chargesheet on 21.10.2019 and case is committed to Sessions Court and the same is registered as S.C. No.143/2019. The accused have filed bail petition before the Sessions Court. The District and Sessions Judge, Raichur, rejected the bail petition. Hence, accused No.2 has filed this bail petition before this Court under Section 439 of Cr.P.C.

4. Sri Arunkumar Amargundappa, learned counsel appearing for the petitioner has contended that in the complaint there is no any specific allegation against accused No.2 i.e., petitioner herein. Petitioner has been falsely implicated in the above case. No material has been produced before the

Court to show that the petitioner has involved in the crime. The police have already completed the investigation. Due to detention, he has been put great hardship. Petitioner is ready and willing to abide by any conditions that may be imposed by this Court. Hence, he sought for allowing the bail petition.

5. Per contra, learned High Court Government Pleader for the State has filed statement of objections and submitted that in the complaint complainant has mentioned the name of the petitioner. The police have filed chargesheet and recorded statement of CWs.10 and

11. They are neighbors of the accused. They have stated that both the accused were harassing and assaulting the deceased and demanding for dowry. Under these circumstances, if bail is granted, petitioner may tamper the prosecution witnesses and also threat to the complainant. Hence, he sought for rejection of bail petition.

6. Heard learned counsel for the parties.

7. Perused the complaint and other documents placed before the Court. As could be seen from the complaint averments, there is no specific allegation against accused No.2 i.e., petitioner herein. In the chargesheet, the police have recorded 161 statement of CWs.10 and 11. They are the neighbors of the accused. Even though they have stated about the harassment given by accused No.2 to the deceased, but no material is produced before the Court by the prosecution regarding allegation. No specific material has been produced in respect of accused No.2. Since the police have already completed investigation, in my view, the petitioner can be enlarged on bail. The only apprehension of the prosecution is that if the petitioner is enlarged on bail, he may tamper the prosecution witness. This apprehension may be set right by imposing stringent conditions.

8. This is not the stage where the Court would go into the detail or test the veracity of allegation made against the petitioner. Matter requires trial. Therefore, it is further made clear that any observation made in this order is only for consideration of the bail petition of the petitioner and the same would not prejudice the case of the prosecution before the trial Court. For the reasons stated above, the petition deserves to be allowed. Hence, I proceed to pass the following:

ORDER Criminal Petition is allowed. The petitioner is ordered to be released on bail subject to the following conditions, if not required in any other case:

1. The petitioner shall furnish personal bond in a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for the likesum to the satisfaction of the Sessions Court.
2. The petitioner shall not in any manner tamper the prosecution witnesses.
3. The petitioner shall appear before the Investigating Officer and Sessions Court as and when called for.

4. The petitioner shall not leave the jurisdiction of the Raichur District without prior permission from the Sessions Court.

5. The petitioner shall not threaten or allure the prosecution witnesses.

Violation of above conditions would result in cancellation of bail automatically.

Sd/-

JUDGE RSP