

Sri. Naveen Gadad vs The State Of Karnataka on 2 February, 2023

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CRL.P No. 497 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MRS JUSTICE M G UMA
CRIMINAL PETITION NO. 497 OF 2023

BETWEEN:

SRI. NAVEEN GADAD
S/O. VISHWANATH M GADAD
AGED ABOUT 35 YEARS
R/OF NO.4041, 1ST FLOOR,
JAGRUTHI COLONY,
13TH MAIN ROAD,
PUTTENAHALLI,
J P NAGAR 7TH PHASE,
BENGALURU - 560 078

...PETITIONER

(BY SRI: GNANESHA .N.I., ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH BASAVANAGUDI
WOMEN POLICE STATION
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU - 560 009

...RESPONDENT

(BY SRI: K. RAHUL RAI, HCGP)

Digitally signed by
SUNITHA GANGARAJU
Location: High Court Of
Karnataka

THIS CRIMINAL PETITION IS FILED U/S.438 CR.P.C PRAYING
TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS
ARREST IN CR.NO.327/2022 OF BASAVANAGUDI WOMEN P.S.,
BENGALURU CITY FOR THE OFFENCE P/U/S. 498-A, 504, 307 OF
IPC AND SEC.4 OF DP ACT PENDING ON THE FILE OF 37TH ACMM
BENGALURU.

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

ORDER

The petitioner-accused No.1 is before this Court seeking grant of anticipatory bail in Crime No.327/2022 of Basavanagudi Women Police Station, pending on the file of XXXVII ACMM, Bengaluru, registered for the offences punishable under Sections 498(A), 504 and 307 of Indian Penal Code (for short 'IPC') and Section 4 of Dowry Prohibition Act, on the basis of the first information lodged by the informant- Smt. Chetana A.

2. Heard Sri. Ganesha N., learned Counsel for the petitioner and Sri. K.Rahul Rai, learned High Court Government Pleader for the respondent-State. Perused the materials on record.

3. Learned Counsel for the petitioner submitted that the petitioner is arrayed as accused No.1. He is innocent and law abiding citizen. He has not committed any offences as alleged. He has been falsely implicated in the matter without any basis. He is having reasonable apprehension of being arrested by the police. Therefore, he is before this Court. The informant has lodged the first information on 23.11.2022, making false allegations, alleging commission of the offence on 29.05.2022. There is inordinate delay in filing the complaint and the same has not been explained. The petitioner could not tolerate the cruelty meted out by the informant and filed a matrimonial case in M.C. No.6535/2022 seeking dissolution of the marriage. Thereafter, the informant filed an application seeking maintenance under Section 125 of Cr.P.C. and also filed a complaint under the Domestic Violence Act. Again not being satisfied with the same, she had also filed the present complaint without any basis. Learned counsel further submitted that the informant had gone to the extent of filing the missing complaint alleging that the petitioner is missing. Accused Nos.2 to 4 are the family members of the present petitioner and they are granted anticipatory bail. This petitioner is not required for custodial interrogation. He is not having any criminal antecedents. The petitioner is the permanent resident of the address mentioned in the cause title to the petition and he is ready and willing to abide by any of the conditions that would be imposed by this Court. Hence, he prays to allow the petition in the interest of justice.

4. Per contra, learned High Court Government Pleader opposing the petition submitted that serious allegations are made against the petitioner for having committed the offences. The petitioner and the informant have married during December 2019. Since then the petitioner and his family members treated her with cruelty. The petitioner is absconding, since the date of registration of the case. If he is granted anticipatory bail, he may never turn up before the Investigating Officer and he may abscond or may commit similar offences, threaten or tamper the prosecution witnesses. Looking to the nature and seriousness of the offence, the petitioner is not entitled for grant of anticipatory bail. Hence, he prays for dismissal of the petition.

5. In view of the rival contentions urged by the learned counsel for both the parties, the point that

would arise for my consideration is:

"Whether the petitioner is entitled for grant of anticipatory bail under Section 438 of Cr.P.C.?"

My answer to the above point is in 'Affirmative' for the following:

REASONS

6. The allegations made against the petitioner is of serious nature. However, the allegations with regard to the offence under Section 307 of IPC is said to have committed on 29.05.2022. Admittedly, the petitioner is seeking dissolution of marriage, which was filed by him against the informant. There are proceedings under Section 125 of Cr.P.C. and also under Domestic Violence Act, against the petitioner. The petitioner is not required for custodial interrogation. Considering all these facts and circumstances, I am of the opinion that the petitioner may be granted anticipatory bail subject to conditions, which will take care of the apprehensions expressed by the learned High Court Government Pleader that the petitioner may abscond or may tamper or threaten the prosecution witnesses.

7. Accordingly, I answer the above point in the affirmative and proceed to pass the following:

ORDER The petition is allowed.

The petitioner is ordered to be enlarged on bail in the event of his arrest in Crime No.327/2022 of Basavanagudi Women Police Station, pending on the file of XXXVII ACMM, Bengaluru.

The petitioner is directed to appear before the Investigating Officer within 15 days from the date of receipt of this order and on his appearance, the Investigating Officer shall enlarge him on bail subject to the following conditions:-

a. The petitioner shall furnish the bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the likesum to the satisfaction of the Investigating Officer;

b. The petitioner shall not commit similar offences;

c. The petitioner shall appear before the Investigating Officer or the court as and when required; and d. The petitioner shall not threaten or tamper the prosecution witnesses.

On furnishing the sureties by the petitioner, the Investigating Officer is at liberty to verify the correctness of the address and authenticity of the documents furnished by him.

On satisfaction of the said documents, he may proceed to accept the sureties within a reasonable time.

Sd/-

JUDGE SKS