

Chandrashekhar S/O Basappa ... vs The State Of Karnataka on 21 September, 2022

Author: Shivashankar Amarannavar

Bench: Shivashankar Amarannavar

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CRL.P No. 102505 of 2022

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 21ST DAY OF SEPTEMBER 2022

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION NO. 102505 OF 2022

BETWEEN:

CHANDRASHEKHAR S/O BASAPPA KURUVINAKOPPA
AGE. 38 YEARS, OCC. AGRICULTURE,
R/O. BENKANKATTI VILLAGE,
NIGADI, TQ AND DIST. DHARWAD 580118

...PETITIONER

(BY SRI. V. P. VADAVI, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH DHARWAD RURAL PS,
REP. BY STATE PUBLIC PROSECUTOR,
DHARWAD BENCH.

...RESPONDENT

(BY SMT. GIRIJA S. HIREMATH, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.,
SEEKING TO THAT THE PETITIONER/ACCUSED NO.1 PLEASE BE
RELEASED ON BAIL IN DHARWAD RURAL P.S. CRIME
NO.124/2022 AGAINST THE PETITIONER FOR THE OFFENCE

PUNISHABLE U/S 306, 498A, 34 OF IPC PENDING ON THE FILE OF

VIJAYALAKSHMI
M KANKUPPI

IV ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, DHARWAD.

Digitally signed by
VIJAYALAKSHMI M
KANKUPPI
Location: HIGH COURT OF
KARNATAKA DHARWAD

THIS CRIMINAL PETITION COMING ON FOR ORDERS THIS

Date: 2022.09.23 12:46:40
+0530

DAY, THE COURT MADE THE FOLLOWING:

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CRL.P No. 102505 of 2022

ORDER

This petition is filed by accused No.1 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.124/2022 of Dharwad Rural Police Station registered for the offences punishable under Sections 306 and 498A read with Section 34 of The Indian Penal Code (hereinafter referred to as the 'IPC', for brevity).

2. The case of the prosecution is that, one Smt. Paravva, W/o Basappa Hubballi, filed the complaint stating that her daughter-Gangamma has been given in marriage to this petitioner/accused No.1 about 11 years ago and they have two children one Akash aged 10 years and the other Abhishek aged 6 years and her daughter and son-in-law lived happily for 7 years and since last 4 years, the petitioner, his mother, his father and his brother were looking suspiciously the deceased Gangamma and they were giving mental harassment and she used to tell the same to the husband of the complainant and they used to pacify her. Thereafter, as the said mental harassment continued, the complainant brought this petitioner and her daughter to her village Thimmapur and kept with her. About 3 months prior to the date of the incident, she sent her back along with this petitioner after advising them. Thereafter also, the petitioner and his family members started harassing the deceased and sent her to parents house and she was residing there. About 3 days prior to the incident, with the advice of the elders, the deceased was sent along with this petitioner to her husband's house. That on 24.06.2022, the deceased made a phone call to the complainant stating that her husband, her in-laws and her husband's brother were looking her suspiciously and giving mental and physical harassment and asked her mother to take her and her children or otherwise she will die and at that time, this complainant sent her son Yallappa to Benkankatti village and he returned in the evening and told his mother that the family members of Gangamma are giving her ill-treatment. That on 25.06.2022, the complainant received phone message that the deceased is vomiting and nobody is looking after her and the complainant along with others went to Benkankatti village and that her daughter stated that she consumed poison and they got her admitted to the Dharwad District Hospital and she died at 11:00am. The said complaint came to be

filed against the petitioner/accused No.1(husband), mother-in-law, father-in-law and brother-in-law(accused Nos.2 to 4). The said complaint came to be registered in Crime No.124/2022 in Dharwad Rural Police Station for offences under Sections 306 and 498A read with Section 34 of IPC. The petitioner came to be arrested on 25.06.2022 and he is in judicial custody. The petitioner filed CrI.Misc.No.473/2022 seeking bail and the same came to be rejected by the learned III Additional District and Sessions Judge, Dharwad by order dated 16.08.2022. 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. Learned counsel for the petitioner would contend that the allegations made in the complaint are jointly against this petitioner, his father, mother and brother. It is his further submission that the petitioner's father, mother and his brother have been granted anticipatory bail by the Sessions Court and therefore, this petitioner is also entitled for grant of bail on the ground of parity. It is his further submission that there is no allegation of dowry demand and there is no allegation of abetting the deceased to commit suicide. It is his further submission that, the petitioner is ready to co- operate with the police in the investigation. As the petitioner is in judicial custody since 25.06.2022, he is not required for custodial interrogation. The offences alleged against this petitioner is not punishable with death or imprisonment for life. With this, he prayed to allow the petition.

5. Per contra, learned High Court Government Pleader would contend that, due to the harassment given by this petitioner and his family members, the deceased has committed suicide. Investigation is still in progress. The offence alleged against this petitioner is punishable with imprisonment for 10 years. If the petitioner is granted bail, he will hamper the investigation and tamper the prosecution witnesses. With this, she 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 and the order passed by the Sessions Court. in the complaint is that, they suspecting the deceased used to harass Gangamma physically and mentally. Therefore, fed up with the harassment, Gangamma committed suicide. There is no allegation of dowry harassment by the petitioners and his family members. The petitioner led happy married life with Gangamma-deceased for 7 years and he is having two children aged 10 and 6 years. On perusal of the entire averments of the complaint, there is common allegation against accused Nos.1 to 4 of they harassing the deceased. Accused Nos.2 to 4 have been granted anticipatory bail by the Sessions Court. Therefore, this petitioner is also entitled for grant of bail on the ground of parity. When this petitioner/accused No.1 resided with his wife- Gangamma in Thimmapur village, at that time, there was no allegation of he harassing his wife Gangamma. The petitioner is in judicial custody since 25.06.2022, therefore, he is not required for custodial interrogation. The offence alleged against this petitioner is not punishable with death or imprisonment for life. The petitioner is having two minor children to look after.

8. The main apprehension of the prosecution is that, if the petitioner is granted bail, he will hamper the investigation and tamper 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/accused No.1 shall be released on bail in Crime No.124/2022 of Dharwad Rural Police Station subject to the following conditions:

i) The petitioner/accused No.1 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/accused No.1 shall co-

operate in the investigation and make himself available for interrogation whenever required.

iii) The petitioner/accused No.1 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.

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iv) The petitioner/accused No.1 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