

Venkatesh Naik S/O Pomya Naik vs The State Of Karnataka on 22 October, 2020

Author: Mohammad Nawaz

Bench: Mohammad Nawaz

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH
DATED THIS THE 22ND DAY OF OCTOBER 2020
BEFORE
THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

CRL.P. NO.101319 OF 2020

BETWEEN:

VENKATESH NAIK S/O POMYA NAIK
AGED ABOUT 28 YEARS,
OCC:FARMER R/O NAKRAHAL TANDA
H.B. HALLI-583212.

...PETITIONER

(BY SRI.B. ANWAR BASHA, ADVOCATE)

AND:

THE STATE OF KARNATAKA
(THROUGH HAGARIBOMMANAHALLI P.S. BALLARI)
REP. BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
AT DHARWAD-580011.

...RESPONDENT

(BY SRI. V.S. KALASURMATH, HCGP)

THIS PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING THIS HON'BLE COURT TO ENLARGE THE PETITIONER/ACCUSED NO.1 ON REGULAR BAIL IN CRIME NO.79/2020 REGISTERED BY HAGARIBOMMANAHALLI P.S. BALLARI FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 498A, 504, 323, 304B, 306 READ WITH SECTION 34 OF IPC AND SECTIONS 3 AND 4 OF DOWRY PROHIBITION ACT, 1961 PENDING TRIAL OF THE SAID CASE BEFORE III ADDL. DISTRICT AND SESSIONS JUDGE, BALLARI SITTING AT HOSAPETE.

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

ORDER

This petition is filed under Section 439 of Cr.P.C. seeking to enlarge the petitioner/accused No.1 on bail in Crime No.79/2020 of Hagaribommanahalli Police Station, Ballari.

2. Heard the learned counsel for the petitioner and the learned HCGP for the respondent-State.

3. Initially, on the complaint lodged by Umeshnaik-father of the victim, aforesaid case was registered under Sections 498A, 304B, 302 of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961 (for short, 'DP Act') against the petitioner and 9 others. After completion of investigation, charge sheet has been filed for the offences punishable under Sections 498A, 504, 323, 304B, 306 read with Section 34 of IPC and Sections 3 and 4 of DP Act against the petitioner, his mother and 5 in the first information report.

4. Briefly stated the case of prosecution is that, marriage of the complainant's daughter Shashikala was performed with the petitioner/accused No.1 about 5 years back. After the marriage, they were cordial for about one year. Thereafter, accused started subjecting her to cruelty by harassing both physically and mentally demanding additional dowry. On 11.05.2020 at about 10 p.m., deceased Shashikala made phone call to her father and informed about the demand of accused person to bring additional dowry of Rs.50,000/- from her parental house. On 12.05.2020 at about 6 p.m., deceased Shashikala died in the matrimonial house.

5. A perusal of the charge sheet material discloses that at the time of the marriage as per demand of the accused, 2 tolas of gold chain and cash of Rs.50,000/- was given to the bridegroom. 3 1/2 tolas of gold chain was given to the deceased and silver anklet was given to the mother of accused No.1 as dowry, apart from household articles valued at Rs.80,000/-. Further, golden ornaments valued at Rs.9,200/- was given to the bride. Again, a total sum of Rs.30,000/- was spent for the golden and silver ornaments. In August, 2019, accused No.1 assaulted the deceased with a chappal and his brother kicked the deceased. Accused were abusing the deceased for not begetting any children. Unable to bear the torture given by the accused, the daughter of the complainant committed suicide by consuming pesticides on 12.5.2020 at about 6 p.m.

6. Learned counsel for the petitioner submits that even after five years, deceased did not beget any child and therefore, she was depressed. In this regard, she was being taken to the hospital for treatment. In spite of that, she did not conceive. Hence, she has taken the extreme step. He contends that initially case was registered against the entire family members of accused No.1 alleging that they have committed the murder of complainant's daughter. Complainant himself has stated that the petitioner herein has taken the deceased to various places to give treatment to her since she had not conceived even after 5 years. He submits that the entire allegations are false and the petitioner has not committed any offence as alleged. Other accused are enlarged on anticipatory bail. The petitioner is in judicial custody since 13.5.2020. The investigation is completed and charge sheet is filed. Accordingly, he seeks to enlarge the petitioner on bail.

7. Per contra, the learned HCGP contends that the investigation has revealed that the petitioner has

constantly given physical and mental harassment to the petitioner demanding additional dowry and unable to bear the torture, she has committed suicide by consuming pesticides. He submits that in the event of release of the petitioner, he may tamper with the prosecution witnesses and flee from justice. Accordingly, seeks to reject the petition.

8. The petitioner was arrested on 13.5.2020. Now the investigation is completed and charge sheet is filed. Except the petitioner, other accused are already enlarged on bail. The allegations against the accused persons are that they have given physical and mental harassment to the deceased to bring additional dowry from her parental house. Charge sheet material discloses that even after five years from the date of marriage, couple did not have any children. Therefore, the petitioner took the deceased to various places for treatment. Even after giving treatment to her, she did not beget any child.

9. Considering the above facts and circumstances of the case and since now the charge sheet has been filed and other accused are on bail, I am of the view that the petitioner can be enlarged on bail by imposing suitable conditions. Accordingly, I pass the following:

ORDER

a) Petition is allowed.

b) The petitioner/Accused No.1 shall be released on bail in Crime No.79/2020 of Hagaribommanahalli Police Station, Ballari, now pending on the file of the III Addl.

District and Sessions Judge, Ballari sitting at Hosapete, subject to the following conditions:

i) The petitioner/accused No.1 shall execute a personal bond in a sum of Rs.1,00,000/- with two sureties for the likesum to the satisfaction of the Committal Court/Trial Court.

ii) The petitioner shall not tamper with the prosecution witnesses either directly or indirectly.

iii) The petitioner shall not leave the jurisdiction of the trial Court without prior permission.

iv) The petitioner shall furnish his address proof and intimate regarding change in address, if any.

v) The petitioner shall appear before the trial Court on all dates of

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hearing.

The observations made herein above is

confined to the disposal of this petition.

Sd/-

JUDGE JTR