

# Smt Allabu W/O Husensab Gonnaddi vs The State Of Karnataka on 31 January, 2025

**Author: Ravi V.Hosmani**

**Bench: Ravi V.Hosmani**

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NC: 2025:KHC-D:1981  
CRL.P No. 100163 of 2025

IN THE HIGH COURT OF KARNATAKA,  
DHARWAD BENCH

DATED THIS THE 31ST DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

CRIMINAL PETITION NO.100163 OF 2025  
[438(CR.PC)/482(BNSS)]

BETWEEN:

SMT.ALLABU W/O. HUSENSAB GONNADDI,  
AGE: 55 YEARS, OCC. HOUSEHOLD WORK,  
R/O. IBRAHIMPUR, 7TH CROSS, HUBBALLI,  
DIST. DHARWAD.

...PETITIONER

(BY SRI ROSHAN SAHEB CHABBI, ADVOCATE)

AND:

THE STATE OF KARNATAKA  
THROUGH KASABAPETH P.S.,  
REPRESENTED BY S.P.P, HIGH COURT,  
DHARWAD BENCH, DHARWAD-580011.

... RESPONDENT

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(BY SMT.GIRIJA S. HIREMATH, HCGP)

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THIS PETITION IS FILED UNDER SECTION 482 OF BNSS 2023, PRAYING TO GRANT ANTICIPATORY BAIL TO THE PETITIONER/ACCUSED NO.2 IN C.C.NO.2547/2024 (CRIME NO.54/2024 OF KASABAPETH P.S., HUBBALLI), PENDING ON THE FILE OF THE LEARNED II ADDITIONAL CIVIL JUDGE AND JMFC-III, HUBBALLI, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 498A, 304B, READ WITH SECTION 34 OF THE INDIAN PENAL CODE, 1860 TO MEET THE ENDS OF JUSTICE.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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NC: 2025:KHC-D:1981  
CRL.P No. 100163 of 2025

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI) This petition is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') for grant of anticipatory bail in Crime no.54/2024 by Kasabapeth Police Station for offences punishable under Sections 498A and 304(B) read with Section 34 of Indian Penal Code (for short, 'IPC') by accused no.2 (petitioner).

2. Sri Roshan Saheb Chabbi, learned counsel for petitioner submitted case of prosecution was Abdul Rehaman (complainant) filed complaint at 11:00 a.m. on 03.06.2024, stating that his daughter Najmeen (victim) married Ibrahim Hussainsab (accused no.1) on 30.10.2022. At that time he had given 1/2 Tola of gold as agreed and instead of Rs.20,000/-

cash, he had given Rs.15,000/- and sought time for paying remaining. When victim went to her husband's house, she found apart from her husband and parents-in-law, even her brothers-in-law were residing together.

3. And, she often told complainant, that from date of marriage, her husband and his family members abused and NC: 2025:KHC-D:1981 beat her on flimsy reasons and also prevented her from speaking to anyone on mobile. But he had advised them against ill-treatment. Despite same, they had not stopped harassing her with demands for dowry. He further stated that victim had called him and told him that accused no.1 had tried to strangle her and threatened her with dire consequences, in case she spoke to her parents.

4. Thereafter at 5:00 p.m. on 10.05.2024, his relative Basir Karajagi informed him that when crowd had gathered in front of his daughter's house, he went there and saw complainant's daughter lying dead. On going there complainant also saw his daughter had died with hanging marks around her

neck. On enquiry, her mother-in-law told him that victim was found hanging and immediately brought down. She in very casual manner asked complainant to enquire with his dead daughter about reason for hanging herself. Thereafter, he took his daughter to KIMS Hospital at 5:40 p.m., where doctors examined and declared her dead. Alleging that victim's husband, parents and brothers-in-law had harassed her with demands for dowry and compelled her to commit suicide, complaint was filed on same, Crime no.39/2024 was registered NC: 2025:KHC-D:1981 by Hubli - Dharwad City Women Police Station for offences stated above, which was later transferred to Kasabapeth Police Station on 03.06.2024 and re-registered as Crime no.54/2024 (supra).

5. It was submitted, reading of complaint would indicate that allegations made were vague and without any specific overt acts as would meet ingredients of offence of dowry death. It was submitted, only to wreck vengeance against family members of spouse, petitioner herein was arraigned. It was submitted, there were also several discrepancies in spot panchanama conducted on 11.05.2024, complaint had shown spot as bedroom on first floor of house, whereas in complaint, he stated he saw body lying on ground.

It was further submitted, though allegations was demand for dowry by accused, in Shadinama it was recorded that groom paid Rs.5,786/- as Meher. Therefore, allegations that victim committed suicide due to persistent demand for dowry would not be substantiated.

6. It was further submitted, there were no specific averments about demand of dowry soon before incident. It was NC: 2025:KHC-D:1981 submitted, there were no criminal antecedents and petitioner was permanent resident of Hubli having been deep roots in society. It was further submitted, prosecution had completed investigation and already filed charge-sheet on 03.07.2024.

Therefore, presence of petitioner for custodial interrogation would not be necessary. It was further submitted, this Court on 25.01.2025 granted bail to accused no.3. On said ground also petitioner was entitled for bail. On above grounds, sought for grant of anticipatory bail.

7. On other hand, Smt.Girija S. Hiremath, learned HCGP for respondent - State opposed petition. It was submitted, though charge-sheet was filed on 03.07.2024, it was by showing petitioner as absconding and by splitting-up charge-sheet. Therefore, petitioner's claim for anticipatory bail on ground that investigation was completed would be untenable. It was submitted, grant of bail to accused no.3 was on ground that he was residing separately, but, in case of petitioner, she was mother-in-law of deceased victim and residing in same house. It was submitted, there were specific allegations against petitioner and death of victim on 10.05.2024 was within two years of marriage i.e. on NC: 2025:KHC-D:1981 30.10.2022. It was submitted, fact that none from accused family had informed complainant's family immediately after incident, same would aggravate petitioner's claim. On above grounds, sought for rejection of bail.

8. Heard learned counsel.

9. Point that would arises for consideration is:

"Whether petitioner is entitled for anticipatory bail on conditions?"

10. This petition is for anticipatory bail is by accused no.2 - mother-in-law of victim, who died by hanging within two years of marriage at her matrimonial home on 10.05.2024.

Complaint averments specifically alleged harassment with demand for dowry from date of marriage till date of incident. In complaint, complainant has specifically stated that petitioner was residing in same house. It is also seen offences alleged against accused includes Section 34 of IPC. Petitioner has been absconding since date of incident and prosecution has proceeded with split-up charge-sheet. Though, expansive grounds about complaint averments being vague, arraignment NC: 2025:KHC-D:1981 was with vengeance are urged, this would not be appropriate stage for consideration of same.

11. Insofar as contention about discrepancy in complaint about spot of incident, bare perusal of complaint would indicate that complainant had stated about seeing body of his daughter on ground and not ground floor. Therefore, contention would be ill-founded. Even contention based on contents of Shadinama would not be acceptable as payment of Meher is by custom. Though charge-sheet is filed after conclusion of investigation insofar as other accused, same cannot be pleaded in case of petitioner due to splitting up of charge-sheet.

12. High Court of Delhi in case of Sushma v. State (NCT of Delhi), reported in 2024 SCC OnLine Del 6750 has held as follows under similar circumstances:

"10. The learned counsel for the applicant submits that the applicant along with her husband was residing on the first floor of the house while the rest of the family including the deceased resided on the second floor of the house.

11. He submits that the applicant, being a senior citizen aged 60 years, is suffering from various old age diseases including acute NC: 2025:KHC-D:1981 arthritis in her knees. He submits that it is very difficult for her to climb stairs to the second floor of the house and had no concern in the day today personal affairs of the deceased and his son.

12. He submits that the sister-in-law and brother-

in-law of the victim have already been granted pre-arrest bail by the learned Trial Court vide order dated 21.06.2024 wherein it was noted that no specific allegations of demand of dowry or causing harassment to the deceased had been levelled against them.

13. The learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that specific allegations have been levelled against the applicant whereby he cannot claim parity with the co-accused persons who have been granted pre-arrest bail.

14. He submits that the PCR call regarding the death of the victim was made by her friend who had informed that the victim had died an unnatural death. He submits that the accused persons made no attempt to intimate the police authority on their own.

15. The considerations governing the grant of pre-arrest bail are materially different than those to be considered while adjudicating application for grant of regular bail, as in the latter case, the accused is already under arrest and substantial investigation has been carried out by the investigating agency.

16. It is trite law that the power to grant a pre- arrest bail under Section 438 of the CrPC is extraordinary in nature and is to be exercised sparingly. Thus, pre-arrest bail cannot be granted in a routine manner. The NC: 2025:KHC-D:1981 Hon'ble Apex Court, advertent to its previous precedents, has discussed the parameters to be considered while considering pre-arrest bail applications, in the case of State of A.P. v. Bimal Krishna Kundu, (1997) 8 SCC 104, has held as under:

"8. A three-Judge Bench of this Court has stated in Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969] : (SCC p. 600, para 5) "5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal."

9. Similar observations have been made by us in a recent judgment in State v. Anil Sharma [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651] : (SCC pp. 189-90, para 8) "The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest."

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12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour

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NC: 2025:KHC-D:1981 of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-

orchestrated conspiracy, with a pre- arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would

greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on "the career of millions of students", learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order."

17. This Court, while dismissing the bail application of the applicant's husband, who is a co-accused in the present case, observed that the victim died under unnatural circumstances within three years of her marriage to the applicant's son. This fact raises a statutory presumption under Section 113B of the Indian Evidence Act, 1872. Furthermore, the applicant has been

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NC: 2025:KHC-D:1981 specifically accused of harassing the deceased soon after her marriage, allegedly in connection with dowry demands, which eventually led to her tragic death.

18. This Court relied upon the judgment passed by the Hon'ble Apex Court in the case of Samunder Singh v. State of Rajasthan, (1987) 1 SCC 466, wherein it was held that in cases involving dowry death, the High Court should exercise caution and refrain from granting pre-arrest bail, given the gravity and seriousness of such offences.

19. It was further noted by this Court that, although there was a delay in the statement regarding the cruelty inflicted upon the deceased, such delay cannot, at this stage, be considered detrimental to the prosecution's case. The merit of this aspect will be evaluated during the trial, and it does not warrant the granting of pre-arrest bail at this juncture.

20. It cannot be held, at this stage, that the investigation is being carried out with the intention to injure or humiliate the applicants. The nature and the gravity of the allegations are serious. It is settled law that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the CrPC [Ref. State v. Anil Sharma, (1997) 7 SCC 187].

21. The investigating agency needs to be given a fair play in the joints to investigate the matter in the manner they feel appropriate.

22. The relief of pre-arrest bail is a legal safeguard intended to protect individuals from potential misuse of power of arrest. It

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NC: 2025:KHC-D:1981 plays a crucial tool in preventing harassment and unjust detention of innocent persons. However, the court must carefully balance the individual's right to liberty with the

interests of justice. While the presumption of innocence and the right to liberty are fundamental principles of law, they must be considered in conjunction with the gravity of the offence, its societal impact, and the need for a comprehensive and unobstructed investigation.

23. While the benefit of proviso to Section 437 of the CrPC, which allows for leniency in granting bail to a woman, sick, or infirm, is recognized under certain circumstances, this benefit cannot be extended at the stage of pre-arrest bail. The applicant is accused of having a role similar to that of her husband/co-accused, whose pre-arrest bail has already been dismissed by the Hon'ble Apex Court.

24. Even otherwise, the protection under Section 437 of the CrPC is not absolute and is subject to the nature and gravity of the offence. In this case, where the applicant is alleged to be directly involved in the incessant demands of dowry and harassment of the deceased, the mere fact of being an elderly woman or infirm does not automatically entitle her to pre-arrest bail. The allegations must be scrutinized based on the merits of the case, and the severity of the crime takes precedence over any personal exemptions under Section 437 of the CrPC.

25. In view of the above, in the present circumstances, this Court is of the opinion that custodial interrogation of the applicants

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NC: 2025:KHC-D:1981 ought not to be denied to the investigating authority.

26. Considering the aforesaid discussion, this Court is of the opinion that the applicant has not made out a prima facie case for grant of pre-arrest bail.

27. The present application is accordingly dismissed."

13. In view of above circumstances and as petitioner would be required for custodial interrogation, There are no good grounds to allow petition. Hence, point for consideration is answered in negative.

Petition is dismissed.

SD/-

(RAVI V.HOSMANI) JUDGE GRD CT:PA