

Keshava @ Channakeshava vs State Of Karnataka on 26 March, 2014

Author: R.B Budihal

Bench: R.B Budihal

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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 16th DAY OF MARCH 2014

BEFORE

THE HON'BLE MR. JUSTICE BUDIHAI R.B.

Crl.P.Nos.1418, 1449 and 1467 of 2014

Crl.P.No.1418/2014

BETWEEN:

KESHAVA @ CHANNAKESHA
S/O NARAYANAPPA,
AGED ABOUT 38 YEARS,
R/AT NO.123, 4TH MAIN,
ANAM ENLAVE, ASHWATH NAGAR,
BANGALORE-560009.

... PETITIONER

(By Sri B N SHIVA KUMAR, ADV.)

AND

STATE OF KARNATAKA
BY HENNURU P.S.
BANGALORE
REPRESENTED BY SPP
At HIGH COURT OF
KARNATAKA
BANGALORE-560009.

... RESPONDENT

(By Sri K NAGESHWARAPPA,HCGP FOR RESPONDENT)

Smt.Bhagyalakshmi,
w/o.Vijikumar R N.

.. Applicant in
all the crl.petns. is common

(By Sri GAYATHRI RAVISHANKAR, ADV. FOR APPLICANT)

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THIS CRL.P IS FILED U/S.438 CR.P.C BY THE
ADVOCATE FOR THE PETITIONER PRAYING THAT
THIS HON'BLE COURT MAY BE PLEASED TO
ENLARGE THE PETITIONER ON BAIL IN THE EVENT
OF HIS ARREST IN CR. NO.50/2014 OF HENNUR P.S.,
BANGALORE CITY, WHICH IS REGISTERED FOR THE
OFFENCE P/U/S 498A,506,504,354,324 OF IPC AND
SEC.3 AND 4 OF D.P.ACT.

Crl.P.No.1449/2014

BETWEEN:
CHANDRAPPA
@ CHANDRASHEKAR
S/O DODDAIAH
AGED ABOUT 38 YEARS
R/AT NO.123, 4TH MAIN
ANAM ENCLAVE, ASHWATH NAGAR
BANGALORE-560009. .. PETITIONER

(By Sri B N SHIVA KUMAR, ADV.)

AND
STATE OF KARNATAKA
BY HENNURU P.S.
BANGALORE
REPRESENTED BY SPP
At HIGH COURT OF
KARNATAKA
BANGALORE-560009. ... RESPONDENT

(By Sri K NAGESHWARAPPA, HCGP FOR RESPONDENT
Sri GAYATHRI RAVISHANKAR, ADV. FOR APPLICANT)

THIS CRL.P IS FILED U/S.438 CR.P.C BY THE
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OF HIS ARREST IN CR. NO.50/2014 OF HENNUR P.S.,
BANGALORE CITY, WHICH IS REGISTERED FOR THE
OFFENCE P/U/S 498A,506,504,354,324 OF IPC AND

SEC.3 AND 4 OF D.P.ACT.

CrI.P.No.1467/2014

BETWEEN:

1. GAYATHRI
AGED ABOUT 35 YEARS,
W/O N.V. JAGADISH,
R/AT NO.17, SRI VENU NILAYA,
SSA ROAD, HEBBAL,
BANGALORE-560 024.
2. N.V JAGADISH
S/O H. VENKATAPPA,
AGED ABOUT 38 YEARS,
R/AT NO.17, SRI VENU NILAYA,
SSA ROAD, HEBBAL,
BANGALORE-560 024. ... PETITIONERS

(By Sri ANIL GHOSH G R, ADV.)

AND

STATE OF KARNATAKA
BY HENNURU P.S.
BANGALORE-560 043. ... RESPONDENT

(By Sri K NAGESHWARAPPA, HCGP FOR RESPONDENT
Sri GAYATHRI RAVISHANKAR, ADV. FOR APPLICANT)

THIS CRL.P IS FILED U/S.438 CR.P.C BY THE
ADVOCATE FOR THE PETITIONERS PRAYING THAT
THIS HON'BLE COURT MAY BE PLEASED TO
ENLARGE THE PETITIONERS ON BAIL IN THE EVENT
OF THEIR ARREST IN CR. NO.50/2014 OF HENNUR
P.S., BANGALORE CITY, WHICH IS REGISTERED FOR

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THE OFFENCE P/U/S 498A,506,504,354,324 OF IPC
AND SEC.3 AND 4 OF D.P.ACT.

These criminal petitions coming on for orders this
day, the Court passed the following:-

ORDER

Heard the learned counsel for the applicant and also the counsel appearing for the petitioners. Perused the application filed under Section 24(8) of Cr.PC read with Section 301(2) of Cr.PC and also the affidavit in support of the applications. The applications all numbered as I.A.I/14 in all the three petitions are allowed. Counsel for the applicant is permitted to come on record to assist the

prosecution.

2. These three petitions filed by accused Nos.7, 8, 5 and 6 under Section 438 of Cr.P.C. seeking anticipatory bail to direct the respondent - PS to release the petitioners on bail in the event of their arrest for the offences punishable under Sections 498(A), 509, 506, 354, 324 read with Section 149 of IPC registered in the respondent-police station in Crime No.50/2014.

3. The brief facts of the prosecution case is that the marriage of complainant with accused No.1 was solemnized on 28.5.2013 and at the time of marriage, the parents of the complainant gave jewels of more than Rs.25 lakhs. After the marriage, the complainant was living with her husband and in-laws happily only for a period of two months and thereafter, accused Nos.1 to 6 started to harass the complainant. The complainant's father gave Rs.2,50,000/- cash amount to the accused persons, but even then the accused were insisting the complainant to bring more amount and also demanding to enter the name of accused No.1 in respect of site from her parental place. It is also alleged that accused No.2 was giving sexual harassment to the complainant. The other accused were also giving ill-treatment to the complainant and insisting her to bring money and also for transfer the site into the name of accused No.1. On the basis of the complainant, a case has been registered against the petitioners/accused persons.

4. Heard the argument of the learned counsel appearing for petitioners/accused Nos.7, 8, 5 and 6 and also the argument of the learned Government Pleader for respondent/State and so also the learned counsel who has come on record to assist the prosecution.

5. Learned counsel for the petitioners during the course of argument submitted that so far as accused Nos.7 and 8 is concerned, they are not related to either the accused persons or the complainant. They are the third persons, who have no connection with the alleged offences. Learned counsel further made a submission that the allegations made in the complaint are bald and general in nature. There is no specific allegation made against the petitioners/accused Nos.7 and 8 are concerned. Hence, learned counsel made a submission that absolutely there are no materials placed except making the allegation that accused Nos.7 and 8 are also insisted the other accused persons and helped them in committing the alleged offences. Therefore, counsel made a submission that there is no prima facie material placed so far as petitioners/accused No.7 and 8 are concerned and accused Nos.3 and 4 have already been granted bail by the order of lower court. Hence, the petitioners may be admitted to bail by imposing reasonable conditions.

6. Learned counsel appearing for accused Nos.5 and 6 during the course of argument submitted that so far as accused No.6/Jagadish is concerned, there is no reference of the petitioners about the involvement in the alleged offences either in the complaint or in the materials placed by the prosecution. He made a submission that so far as accused No.5/Gayathri is concerned, general allegations are made alongwith other accused persons that all the family members were giving ill-treatment and harassment to the complainant insisting her to bring dowry amount and also transfer of site in the name of accused No.1. Hence, learned counsel made a submission that there is no prima facie material placed so far as accused Nos.5 and 6 is concerned. Under the similar set of allegations, accused Nos.3 and 4 have already been granted bail. Therefore, by imposing reasonable

conditions and on the ground of parity, petitioners/accused Nos.5 and 6 may be admitted to bail.

7. As against this, learned Government Pleader during the course of his argument submitted that the averments made in the complaint itself go to show that the ill-treatment and harassment were given to the complainant by accused No.1 and his family members. He made a submission that it is specifically made in the complaint that though the parents of the complainant gave jewels for more than Rs.25 lakhs at the time of marriage of complainant with accused No.1, even then, accused persons started giving harassment immediately after the marriage of two months and they were insisting the parents of complainant to enter the name of accused No.1 in respect of site. Hence, learned Government Pleader made a submission that at this stage, there is prima facie material placed by the prosecution to show the involvement of the petitioners/accused in committing the alleged offences. Hence, accused persons are not entitled to be granted with bail.

8. Learned counsel, who has come on record to assist the prosecution, during the course of his argument submitted that so far as the ill-treatment and harassment is concerned, he has produced photographs to show that how the complainant was harassed by her husband and family members of the husband of complaint. He made a submission that in the complaint, it is clearly mentioned about the harassment meted out to her by accused No.1 and other members of his family. Hence, he made a submission that if the petitioners/accused persons were granted with bail, there is likelihood of giving ill-treatment and harassment to the complainant and it will come in the way of her case to proceed with the case before the IO as well as the trial Court. Learned counsel in support of his argument relied upon a decision of Madras High Court in Crl.O.P. (MD) No.5474/2010 decided on 7.7.2010. Hence, he made a submission that the petitioners are not entitled to be granted with bail.

9. I have perused the averments made in the bail petition in respect of three petitions, FIR, complaint and the order of lower court on the bail application and other materials placed in the case.

10. On perusing the allegations made in the complaint, firstly with regard to petitioners/accused Nos.7 and 8 are concerned, it is admitted that they are not the family members of accused Nos.1 to 6 and they are totally strangers and even in the complaint. It is also mentioned that accused No.8 is the friend and tenant of accused No.1 residing in another portion of the building, where accused No.1 and his family members are residing with the tenants. So looking to the allegations made in the complaint so far as accused No.7 and 8 are concerned, the only allegation is that they were also helping accused No.1 and his family members in committing the alleged offences. Therefore, looking to the materials on record and also as per the allegations made in the complaint and other materials, I am of the opinion that there is no sufficient material placed against accused Nos.7 and 8 and hence there is no involvement in the commission of alleged offences. Therefore, by imposing reasonable conditions, accused Nos.7 and 8 can be admitted to bail.

11. With regard to accused Nos.5 and 6 are concerned, I have gone through the allegations made in the complaint. It is no doubt true that there is allegation made against them that accused No.1 and his family members were giving ill-treatment and harassment to the complainant and they were assaulting and insisting her to bring more dowry amount and get the site into the name of accused

No.1. It is the contention of the learned counsel for petitioners that accused Nos.3 and 4 have already been granted bail in the similar circumstances.

12. I have perused the photographs produced by the learned counsel, who has come on record. The photographs go to show the ill-treatment meted out by accused persons. But it is a matter for trial court to ascertain about all these things during the course of trial. But at present looking to the allegations made in the complaint, it is a serious allegation made against accused No.1 and in-laws of the complainant.

13. So far as accused No.6/Jagadish is concerned, his name is mentioned in the complaint and so also the name of accused No.5/Gayathri. Accused No.5 being a woman, as accused Nos.3 and 4 have already been granted bail, is also entitled to be granted bail under the similar circumstances by imposing conditions to secure her presence before the Investigating Officer and trial court.

14. So far as accused No.6/Jagadish is concerned, learned Government Pleader submitted that the matter is still under investigation before the Investigating Officer and charge sheet is yet to be filed in the matter. Looking to the photographs produced and also the decision relied upon by the learned counsel, who has come on record, I am of the opinion that accused No.6/Jagadish at this stage is not entitled to be granted anticipatory bail. Accordingly, Crl.P No.1418/2014 in respect of accused No.7 and Crl.P No.1449/2014 in respect of accused No.8 are allowed. Crl. P No.1467/2014 in respect of accused No.6/Jagadish is rejected and it is allowed in respect of accused No.5/Gayathri subject to the following conditions:-

(a) Each petitioner shall execute a personal bond for a sum of Rs.25,000/-

and furnish a surety for the like sum to the satisfaction of the concerned Court;

(b) The petitioners shall not tamper with any of the prosecution witnesses directly or indirectly;

(c) The petitioners shall make themselves available before the Investigating Officer for interrogation whenever called for;

(d) The petitioners shall appear before the concerned Court within 30 days from the date of this order to execute the personal bond and surety bond.

Sd/-

JUDGE Bkm.