

# Jagadish S/O Devendrappa Totnalli vs State Through Kurkunta P.S on 12 September, 2022

**Author: P.N.Desai**

**Bench: P.N.Desai**

IN THE HIGH COURT OF KARNATAKA  
KALABURAGI BENCH

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DATED THIS THE 12 DAY OF SEPTEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE P.N.DESAI  
CRIMINAL PETITION NO.201060/2022

BETWEEN:

JAGADISH S/O DEVENDRAPPA TOTNALLI

AGE: 34 YEARS OCC: COOLIE WORK

R/O: KURKUNTA TQ; SEDAM

DIST: KALABURAGI.

...PETITIONER

(BY SRI. BASAVALING NASI, ADVOCATE)

AND:

STATE THROUGH KURKUNTA P.S.

REPRESENTED THROUGH HCGP

HIGH COURT OF KARNATAKA,

AT KALABURAGI BENCH-585 102.

...RESPONDENT

(BY SRI. GURURAJ V. HASILKAR, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439  
OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO ALLOW  
THE PETITION AND RELEASE THE PETITIONER ON REGULAR  
BAIL IN CRIME NO.7/2022 OF KURKUNTA POLICE STATION FOR  
THE OFFENCES PUNISHABLE UNDER SECTIONS 498A AND 306  
READ WITH SECTION 34 OF INDIAN PENAL CODE, PENDING ON  
THE FILE OF CIVIL JUDGE (JR. DN) AND JMFC, AT KALABURAGI.

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

## ORDER

This petition is filed under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short), seeking to enlarge the petitioner, who are arraigned as accused No.1, on bail in Crime No.7/2022 of Kurkunta Police Station, registered for the offences punishable under Sections 498A, 306 and 34 of Indian Penal Code ('IPC' for short), pending on the file of Civil Judge (Jr. Dn) and JMFC at Kalaburagi.

02. It is the case of the prosecution that the FIR came to be registered on the basis of complaint lodged by one Veerbhadrappa stating that her daughter was married to the petitioner about 06 years back. Thereafter, unnecessarily the petitioner and his family members were quarrelling with her stating that she is suffering from the psoriasis and Tuberculosis disease. They have also assaulted her. In this regard the deceased informed her parents. On 05.05.2022 the petitioner called the first informant - complainant over phone stating that his daughter committed suicide by hanging herself in a room in their house. Accordingly, the petitioner and his family members brought her to the hospital. But doctor declared that she is dead. It is alleged that because of the ill- treatment by the petitioner and his family members, as she is suffering from psoriasis and Tuberculosis disease, she has committed suicide. The police have investigated the matter. The petitioner was arrested on 10.07.2022 and other accused were also arrested. The bail petition filed by the petitioner came to be rejected by the Sessions Court. Hence, the petitioner has filed this petition.

03. Heard Sri. Basavaling Nasi, the learned counsel for the petitioner and Sri. Gururaj V. Hasilkar, the learned High Court Government Pleader for the respondent - State.

04. The learned counsel for the petitioner argued that it is not a case of harassment for dowry. It is falsely alleged that the petitioner and his family members are harassing the deceased stating that she was suffering from psoriasis and Tuberculosis disease and told that she should go and die. It is further argued that even such incident had taken place, it does not amount to abetment. The postmortem report reveals that she has committed a suicide by hanging. The petitioner has got children. He is only earning member of the family. The other accused were already enlarged on bail by the learned Sessions Court. The petitioner is ready to abide by any conditions that may be imposed by this Court and ready to offer sureties. Hence, the learned counsel for the petitioner prays to allow the petition.

05. Against this, the learned High Court Government Pleader argued that the offence is heinous one. The incident has occurred within seven years of the marriage. Therefore, there is a presumption under the Indian Evidence Act. The cause of death is still awaited. If the petitioner is released on bail, he may tamper the prosecution witnesses and he may threaten to the witnesses. Hence, the learned High Court Government Pleader prays to reject the petition.

o6. I have perused the entire material on record. Admittedly, the allegation is not about the dowry of harassment. It is alleged that as she was suffering from psoriasis and Tuberculosis disease. The petitioner and his family members were abusing the deceased stating that she is not a proper wife to the petitioner and she should go and die. It is also evident that the death of the deceased was informed by the petitioner himself and he took deceased to hospital. Admittedly, the postmortem report shows that there is 'v' shape ligature mark on her neck. The petitioner is having children and he is in judicial custody. Therefore, looking into the nature of allegation, material placed before the Court as charge sheet is already filed and as the petitioner is not required for further investigation, the petitioner is entitled for bail.

o7. It is settled principle of law that bail is a rule and rejection is an exception. While granting or rejecting the bail application, the Court will have to take into consideration, (1) the nature and seriousness of the offence;

(2) character of the accused;

(3) circumstances which are peculiar to accused;

(4) reasonable probabilities of presence of the accused not being secured at trial;

(5) reasonable apprehension of witnesses being tampered with; and (6) larger interest of public or the state and similar other considerations, which arise when a Court is asked to admit the accused to bail in a non-bailable offence.

o8. The apprehension of the prosecution can be meted out by imposing reasonable conditions on the petitioner, as he has undertaken to co-operate with the investigation and furnish sureties. Accordingly, I proceed to pass the following:

ORDER The criminal petition filed under Section 439 of Cr.P.C. is allowed.

The petitioner - accused No.1 - Jagadish s/o Devendrappa Totnalli, in Crime No.7/2022 of Kurkunta Police Station, on the file of the Civil Judge (Jr. Dn) and JMFC, at Kalaburagi, registered for the offences punishable under Sections 498A, 306 and 34 of IPC, shall be released on bail, subject to the following conditions.

i) The petitioner shall execute a self-bond for Rs.1,00,000/- with a surety, for the like sum to the satisfaction of the Trial Court or Committal Court where the case is now pending.

ii) The petitioner shall not try to tamper the prosecution witnesses directly or

indirectly.

iii) The petitioner shall not involve in any criminal activities.

iv) The petitioner shall furnish proof of his residential correct address to the

investigating officer and shall inform the Court/Investigating Officer if there is any change in the address.

v) The petitioner shall not leave the jurisdiction of the Trial Court without prior permission of Trial Court.

vi) The petitioner shall appear before the Court on all dates of hearing without fail as and when directed, unless he is exempted from appearance.

In case if any of the condition is violated, the prosecution is at liberty to move application for cancellation of bail.

Sd/-

JUDGE KJJ