

Jayavva D/O Puttappa Muradennanavar vs State Of Karnataka on 7 August, 2017

Author: R.B Budihal

Bench: R.B Budihal.

:1:

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 7TH DAY OF AUGUST 2017

BEFORE

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

CRIMINAL PETITION NO.101590/2017

BETWEEN:

1. JAYAVVA D/O PUTTAPPA MURADENNANAVAR
@ SMT.SHILPA W/O MANJUNATH ADUR,
AGE: 28 YEARS,OCC: HOUSEWIFE,
R/O: KUNIMELLIHALLI,TQ: SAVANUR,
DIST: HAVERI.
2. MANJUNATH @ MANJAPPA
S/O YALLAPPA ADUR,
AGE: 35 YEARS, OCC: AGRICULTURE,
R/O: KUNIMELLIHALLI,
TQ: SAVANUR, DIST: HAVERI.
3. SHOBHA D/O PUTTAPPA MURADENNANAVAR
@ SMT.SHILPA W/O SADANAND MANTRODI
AGE: 30 YEARS, OCC: HOUSEWIFE,
R/O: DEVARA HOSAPETE,
TQ: HANAGAL, DIST: HAVERI. ... PETITIONERS
(By Sri.M.B.GUNDAWADE, ADVOCATE)

AND

1. STATE OF KARNATAKA
BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH, AT DHARWAD,
THROUGH ADUR POLICE STATION. ... RESPONDENT

(By SRI.PRAVEEN K.UPPAR, HCGP)

:2:

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 OF CR.P.C., SEEKING TO RELEASE THE PETITIONERS ON BAIL IN THE EVENT OF THEIR ARREST IN THE CASE ARISING OUT OF ADUR POLICE STATION CRIME NO. 167/2017, FOR THE ALLEGED OFFENCES UNDER SECTION 3, AND 4 OF DOWRY PROHIBITION ACT AND UNDER SECTION 109, 143, 147, 323, 302, 304-B, 498-A READ WITH 149 OF IPC.

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

ORDER

This petition is filed by the petitioners/accused Nos.4, 6 and 5 respectively under Section 438 of Cr.P.C. seeking anticipatory bail, to direct the respondent Police to release the petitioners/accused Nos.4, 6 and 5 on bail in the event of their arrest for the alleged offences punishable under Sections 109, 143, 147, 323, 302, 304B, 498A, read with Section 149 IPC and Section 3 and 4 of Dowry Prohibition Act, registered in respondent Police Station Crime No.167/2017.

2. Brief facts of the prosecution case as per the complaint averments that, complainant is the resident of Haravi village of Hanagal taluka and he is doing agriculture work, he is having two male and one female children, his daughter namely Rekha given in marriage to one Shambhu son of Puttappa Muradannavar (accused No.1), marriage took place about three years back prior to the incident and they have got a female child by name Sneha. Recently her husband started to harass and assault her every day by consuming alcohol and he was pressurizing her to bring additional dowry, in that regard elderly persons of both villages advised to the accused No.1- Shambu, but he has not heeded to their advice and continued their harassment. On 15.03.2017 his daughter contacted on phone and informed that, she is facing too much harassment in her house and she was abused by saying that, she has not brought any good future along with her, on her entry into their house no development has taken place, she also stated that, her mother-in-law Ratnavva, father-in-law Puttappa and husband's sister Jayavva and Shobha and Manjappa Adur husband of Jayavva are assaulting and harassing her for bringing additional dowry and pressuring her to bring five tola gold. He along with elderly persons went to the house of Shambu, he advised his daughter that, accused No.1 may improve his behavior and asked her to tolerate the things and the husband's house is her house only. On 17.06.2017 his daughter contacted twice at 6.10 a.m. and 8.30 a.m. and requested immediately come over along with elderly persons of village as she was receiving too much harassment, again at 9.30 am one person who is the friend of Shivalingappa brother of informant informed that, his brother's daughter had consumed the poison and died, presently she is in Government Hospital at Akki-Alur, immediately complainant and other family members rushed to the said hospital and saw her daughter's dead body at mortuary. It is alleged that, Shambu husband of his daughter, his mother Ratnavva, husband's sister Jayavva and Shobha and Jayavva's husband-Manjappa Adur resident of Kunimallihalli are responsible for her death and he also

informed that, one Nagappa Pillikatti paternal uncle of Shambu has abetted the other accused persons, he also alleged that, all the accused persons assaulted and committed murder and in order to hide the same they falsely stated that, she has consumed the poison. On the basis of the said complaint, case came to be registered against the petitioners and other accused persons.

3. Heard the learned counsel appearing for the petitioners/accused Nos.4, 6 and 5 and also the learned HCGP appearing for the respondent-State.

4. Learned counsel for the petitioners made the submission that, there are no specific allegations in the complaint as far as the present petitioners are concerned, only bald and vague allegations are made against them that, all accused persons gave harassment to the deceased. He further made the submission that, the allegation in the complaint is that, they have assaulted the deceased and committed her murder and to hide the same they have set up a false case that, she has consumed the poison. Main accused person i.e., accused No.3, against whom serious allegations are made, has already granted with bail by learned Sessions Judge. Even accused No.7 also applied for regular bail before this Court and this Court allowed the said petition and granted regular bail to accused No.7 also. He submitted that, there is no prima- facie case against the present petitioners, hence, by imposing reasonable conditions they may be enlarged on bail.

5. Per Contra, the learned HCGP made the submission that, the marriage of deceased with the accused No.1 was performed about 3 years prior to the incident. The death was also taken place in the house of the husband of the deceased. He also made the submission that, regarding ill-treatment and harassment, there are allegations in the complaint that, deceased was subjected to ill-treatment and harassment insisting her to bring additional dowry amount. Hence he made the submission that, all these materials clearly goes to show that there is prima-facie case against the present petitioners and he submitted that, the petitioners are not entitled to be granted with bail.

6. I have perused the grounds urged in the bail petition, FIR, Complaint and also the order passed by the learned Sessions Judge rejecting the bail application, so also I have perused the order passed by this Court dated 25.07.2017 passed in Criminal Petition No.101470/2017 in respect of accused No.7. Looking to the complaint averments it is no doubt true that, there are allegations even as against the present petitioners that, they used to give ill-treatment and harassment, but what is the nature of ill-treatment and harassment there is no specific averments made, but in the complaint it is also mentioned by the father of the deceased that, all the accused persons assaulted the deceased and committed her murder and to hide the same, they have set up a false case that, she has consumed the poison. It is the case of the complainant as per the complaint that, death of the deceased is because of the assault made by the accused persons, in this connection I have perused the post-mortem report given by the doctor who conducted the autopsy over the dead body, there are no external injuries found on the body of the deceased and it is case of poisoning. In view said opinion by the doctor prima-facie it falsify the allegations firstly they have assaulted and committed her murder then they have set up a false case that, she has consumed poison. The petitioners contented in the bail petition that, there is false implication and they have not committed any alleged offences and they are innocent and they are ready to abide by any reasonable conditions to be imposed by the Court. In this connection, I have perused the order of this Court in respect of

accused No.7-Nagappa against whom there was a allegation that he instigated the other accused persons to commit the alleged offence. Hence, I am of the opinion that, it is a fit case to exercise discretion in favour of the petitioners/accused Nos.4, 6 and 5 to admit them for anticipatory bail.

7. Accordingly petition is allowed, the respondent Police is directed to enlarge the petitioners/accused Nos.4, 6 and 5 on bail in the event of their arrest in Crime No.167/2017 for the above said offences, subject to the following conditions:

i. Petitioners have to execute personal bond for a sum of Rs.1,00,000/- each, and furnish one surety for the like sum to the satisfaction of arresting authority. ii. Petitioners shall not tamper with any of the prosecution witnesses directly or indirectly.

iii. Petitioners have to make themselves available before the IO for interrogation, as and when called for.

iv. Petitioners have to appear before the concerned Court within 30 days from the date of this order and to execute the personal bond and the surety bond.

Sd/-

JUDGE Ckk