

Santosh Kumar S/O Late Yashwanath Kumar vs The State Of Karnataka on 29 March, 2023

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CRL.P No. 100620 of 2023

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 29TH DAY OF MARCH, 2023

BEFORE

THE HON'BLE MS. JUSTICE J.M.KHAZI
CRIMINAL PETITION NO. 100620 OF 2023 (438)

BETWEEN:

SANTOSH KUMAR,
S/O LATE YASHWANATH KUMAR,
AGE ABOUT 35 YEARS, OCC: POLICE,
R/O HUSSAIN NAGAR, RAMAIIH COLONY,
BALLARI-583101.

...PETITIONER

(BY SRI M.L.VANTI, ADVOCATE FOR
SRI V. M. SHEELVANT, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
SUB INSPECTOR OF POLICE
WOMEN POLICE STATION,
BALLARI RPTD. BY SPP.
HIGH COURT OF KARNATAKA,

Digitally signed by

VIJAYALAKSHMI
M KANKUPPI
Location: HIGH
COURT OF
KARNATAKA
DHARWAD

DHARWAD BENCH,

DHARWAD.

...RESPONDENT

(BY SMT.GIRIJA S. HIREMATH, HCGP)

THIS CRIMINAL PETITION IS FILE U/SEC. 438 OF CR.P.C.
SEEKING TO DIRECT THE RESPONDENT TO RELEASE THE
PETITIONER/ACCUSED NO.1 ON BAIL IN THE EVENT OF HIS
ARREST IN WOMEN PS, BALLARI IN CRIME NO.176/2022
REGISTERED FOR THE OFFENCES P/U/SEC. 498A, 323, 504,

506, 307 AND 34 OF IPC AND 3 AND 4 OF DOWRY
PROHIBITION ACT 1961 BY ALLOWING THIS PETITION.

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

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ORDER

Petitioner who is arraigned as accused No.1, he seeking anticipatory bail for the offences punishable under Sections 498(A), 323, 504, 506, 307 and Section 34 of Indian Penal Code (for short, hereinafter referred to as 'IPC') and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. Learned counsel for the petitioner contending that petitioner is innocent of the offences alleged. There are no grounds to connect him with the alleged incident. Accused No.1 and complainant are married since 7 years and living happy married life and all of sudden a complaint filed alleging dowry harassment and ill-treatment. The petitioner is a Government servant i.e., working as a Head Constable in the Police Department, having immovable properties and as such there is no chances of he absconding or interfering with the investigation. Substantial portion of the investigation is completed. Already accused Nos.2 to 5 are on bail. Petitioner is ready to abide by any conditions that may be imposed and prays to allow the petition.

3. Learned High Court Government Pleader submitted oral objections stating that petitioner is the Head Constable working in the Police Department. There are serious allegations of demanding dowry and also attempt made on life of the complainant. Despite the complaint filed on 18.11.2022, so far as charge sheet is not filed, which shows that the petitioner is highly influential. The bail has been granted to accused Nos.2 to 5 mainly on the ground that the main allegations are against the petitioner. If released on bail, there is likelihood of petitioner interfering with the investigation and also tampering with the witnesses and prays to reject the petition.

4. Heard the arguments and perused the records.

5. Complainant is the wife of accused No.1. Accused Nos.2 to 4 are the mother, sister and brother-in-law of the petitioner. The complaint is to the effect that though the petitioner and complainant are married since 7 years and having two sons and they led a happy married life, since about six months petitioner has started harassing and ill-treating her, stating that she is not beautiful and up to the mark and he demanded dowry of Rs.5,00,000/-. She has also alleged that petitioner has absconded with accused No.5.

6. So far as allegation under Section 307 of IPC are concerned, complainant has alleged that Accused Nos.2 and 3 were supporting the petitioner and wanted complainant be throw out of his life. In this background, on 13.11.2022 both of them tried to kill her by squeezing her neck with a veil. In respect

of the said incident dated 13.11.2022, complaint came to be filed on 18.11.2022. Accused No.5 is the person with whom petitioner has allegedly eloped.

7. Already bail is granted to accused Nos.2 to 5. Though there is allegation with regard to dowry demand and harassment against the petitioner, so far as the allegations with regard to 307 of IPC, the main allegations are against accused Nos.2 and 3. Having regard to the fact that the petitioner is working as the Head Constable, the possibility of he fleeing from the justice are remote. The apprehension of the prosecution that he may threaten or tamper with the witnesses may be overcome by imposing stringent conditions, especially when the offences alleged are not punishable with death or imprisonment for life. Accordingly, I proceed to pass the following:

ORDER Petition is allowed. Petitioner/accused No.1 shall be released on bail, in the event of his arrest in Crime No.176/2022 of Ballari Women Police Station, registered for the offences punishable under Sections 498(A), 323, 504, 506 and 307 read with Section 34 of IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961 subject to following:

CONDITIONS

a) Petitioner shall execute a personal bond in a sum of Rs.50,000/- with two sureties for the like-sum.

b) Petitioner shall appear before the Investigating Officer within a period of 15 days and execute the bail bond and offer surety.

c) Petitioner shall make himself available for the purpose of investigation as and when required and he shall co-operate with the investigation.

d) Petitioner shall furnish his residential
address proof and shall inform the

Investigating Officer/Court, if there is any change in the address.

e) Petitioner shall mark his attendance at the Jurisdictional Police Station once in 15 days till filing of the charge sheet.

f) Petitioner shall not tamper with the prosecution witnesses either directly or indirectly.

g) Petitioner shall not indulge in any criminal activities.

h) Petitioner shall be regular in attending the Court proceedings.

SD/-

JUDGE SSP CT-AK