

Karnataka High Court

Shivasharanappa S/O ... vs The State Of Karnataka on 9 May, 2023

Bench: Ramachandra D. Huddar

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CRL.P No. 200473 of 2023

IN THE HIGH COURT OF KARNATAKA,
KALABURAGI BENCH

DATED THIS THE 9TH DAY OF MAY, 2023

BEFORE

THE HON'BLE MR JUSTICE RAMACHANDRA D. HUDDAR

CRIMINAL PETITION NO. 200473 OF 2023

BETWEEN:

SHIVASHARANAPPA S/O CHANDRASHEKHAR
ATTADMANI
AGE: 51 YEARS, OCC: AGRICULTURE,
R/O HONNAKIRANGI,
TQ AND DIST KALABURAGI - 585308.

...PETITIONER

(BY SRI RAJESH DODDAMANI, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH FARTHABAD POLICE STATION,

FARTHABAD
NOW REPRESENTED BY
THE ADDITIONAL STATE PUBLIC PROSECUTOR,

HIGH COURT OF KARNATAKA,
KALABURAGI BENCH - 585102.

Digitally
signed by
SACHIN
Location:
High Court
of
Karnataka

...RESPONDENT

(BY SRI GURURAJ V. HASILKAR, HCGP)

THIS CRL.P. IS FILED U/S. 439 OF CR.P.PRAYING ALLOW
THIS PETITION AND RELEASE THE PETITIONER/ ACCUSED
NO.7 (AS PER FIR) ON BAIL IN CONNECTION WITH
CR.NO.31/2023 OF FARTHABAD POLICE STATION FOR THE
OFFENCES PUNISHABLE UNDER SECTIONS 143, 498(A),

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CRL.P No. 200473 of 2023

304(B) R/W SEC. 149 OF INDIAN PENAL CODE, NOW PENDING
ON THE FILE OF THE HONOURABLE II ADDITIONAL CJ ((JD) &
JMFC KALABURAGI.

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

ORDER

The petitioner/accused has filed the petition under Section 439 of Code of Criminal Procedure seeking to enlarge him on regular bail in Crime No.31/2023 of Ferhatabad Police Station, Kalaburagi registered for the offences punishable under Sections 143, 498(A), 304(B) read with Section 149 of Indian Penal Code, which is now pending on the file of II Additional Civil Judge and Judicial Magistrate First Class, Kalaburagi.

2. Brief facts of the prosecution case as per FIR are as under;

One Sidram S/o Baburay Bhukka who is the father of the deceased Mahananda lodged a complaint before the respondent-Police alleging that, on 25.04.2022, the marriage of his daughter by name Mahananda was performed with the accused No.1- Raju in Honnakiranagi village as per their customs prevailing in their community. At the time of marriage, five tolas of gold and household articles were given to the CRL.P No. 200473 of 2023 parents of accused No.1. After the marriage, initially the petitioners/accused persons treated her properly. Thereafter, they demanded her to bring additional dowry and gold from her parental house and subjected her cruelty both physically and mentally. About 2-3 months back, her daughter informed him about harassment and cruelty did by the accused persons. This fact was informed by Mahananda over phone. It is stated that, the complainant, his wife, and son-in-law went to the house of accused No.1 at Honnakiranagi village, advised the accused persons not to do such act on the deceased Mahananda. It is alleged that, the accused No.7/petitioner herein replied that they know how to treat the women and asked them to go and abused them in filthy language.

3. On 04.04.2023 at about 11.45 a.m. complainant and his son Shrishail had been to Jewargi, accused No.1 informed him over phone that, his wife Mahananda consumed pesticide. They are shifting her to Kalaburagi Hospital, asked them to come there. It is stated that, when the complainant and his son were proceeding towards Kalaburagi from Jewargi by bus, near Farhatabad, they enquired about her condition over phone. Accused No.1 replied that, they were bringing her CRL.P No. 200473 of 2023 to Honnakiranagi village and asked them to stand near Kotanoor Math. Accordingly, at about 12.30 noon, when they were waiting near Kotanoor Math, the accused persons came there in Cruiser vehicle along with dead body of his daughter Mahananda and informed them that, the Mahananda died. On suspicion, they enquired them about the death of his daughter Mahananda. But accused persons ran away from the spot, left the dead body. Thereafter a complaint came to be filed registered in Crime No.31/2023 for the offence punishable under Sections 143, 498(A), 304(B) read with Section 149 of Indian Penal Code by the Ferhatabad Police

Station.

4. The learned counsel for petitioner submits that, the petitioner is a law abiding citizen and has not committed any crime. There is no prima facie case made out against the petitioner. He has been implicated in this case only because he is uncle of accused No.1. As per the complaint allegations, all the family members of the husband of the deceased are impleaded as accused in this case. The allegation against the petitioner is that during the panchayat he had told that he knows how to treat women in their family. Except the same there is no allegation against the petitioner. It is stated that, he CRL.P No. 200473 of 2023 has been arrested and remanded to judicial custody on 05.04.2023 and since then he is in judicial custody. He is coming from respectable family. He is the permanent resident of the address so stated in the petition. He has no criminal antecedents and is ready and willing to abide any conditions imposed by this Court. Among other grounds, it is prayed to release him on bail.

5. On the other hand, learned High Court Government Pleader filed statement of objection denying the allegation made in the bail petition. In addition to narrating the gist of the complaints, it is contended that, the accused persons named in the complaint have demanded the deceased to bring additional dowry and gold ornaments from her parental house and they subjected her cruelty both physically and mentally. Because of the persistent act of the accused persons, she committed suicide by consuming pesticides. It is further stated that, these accused persons are also members of criminal conspiracy to commit the suicide of deceased. Hence, it is prayed to dismiss the petition.

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6. Heard the learned counsel for the petitioner and the learned High Court Government Pleader for the respondent/State.

7. Having heard the arguments and on meticulous reading of the records placed by the prosecution, it reveals that, this criminal case arise out of a complaint filed by the complainant before the respondent-police on 04.04.2023 alleging that, he is the resident of the address so stated in the complaint. The complainant has got four children and his daughter Mahananda has been married with accused No.1 on 25.04.2022 as per their ritual prevailing in their family. They have also given five tolas of gold, household articles and also money as dowry. It is alleged that the accused persons persistently harassed both mentally and physically demanded to bring more dowry. About 2-3 months back deceased Mahananda informed the complainant about cruelty given by the accused and called the complainant with regard to persistent harassment by the accused persons. Therefore, a panchayat was conducted at Honnakirnanagi Village. At that time the present petitioner was also present. There was advise to the accused persons. At that time, this petitioner gave a CRL.P No. 200473 of 2023 threat stating that they know how to treat the women in their family and abused them in filthy language.

8. It is further stated that on 04.04.2023 at about 11.45 a.m. when the complainant and his son Shrishail were at Jewargi Village at that time accused No.1 - Raju husband of the deceased called the complainant on mobile phone and informed that Mahananda has consumed the pesticides and

they are taking her to Kalaburagi hospital. Immediately, the complainant, his son boarded the bus to Kalaburagi. When they were at Farhatabad, they enquired about the health condition of deceased, it is told that, now they are at Honnakiranagi Village and at about 12.30 noon when the complainant and his son were waiting near Kotanoor Math, one cruiser vehicle came there and in the said vehicle, the mother-in-law of accused no.1 and other members of the family informed the complainant that deceased Mahananda is no more.

9. It is further stated that, the said cruiser vehicle was stopped and the accused persons by parking the said vehicle ran away from the spot. Thereafter, the complainant and others came to the Farhatabad Police Station along with dead body of CRL.P No. 200473 of 2023 Mahananda. With these allegations a complaint came to be filed which is registered in the above said crime in which now the petitioner is seeking bail.

10. On perusal of the complaint, it reveals that the said deceased Mahananda was married to accused No.1 on 25.04.2022. It is alleged that the accused No.1 and his family members harassed the deceased both physically and mentally. They demanded to bring more dowry from the parental house of the deceased. As it was informed to the complainant, a panchayat was conducted, at that time the present petitioner spoke as under :-

"ಇಲಾಖೆಗೆ ಹೇಳಿರುವಂತಹದಾಗಿ, ಪತ್ನಿಯು ನಾನು ಮತ್ತು ಇತರರನ್ನು ಹಿಂಸಿಸಿದಳು ಮತ್ತು ನಾನು ಅವಳಿಗೆ ಹೆಚ್ಚಿನ ದ್ರವ್ಯವನ್ನು ತರುವಂತಹದಾಗಿ ಒತ್ತಾಯಿಸಿದೆ. ಅಂತಹ ಸಂದರ್ಭಗಳಲ್ಲಿ, ಪಂಚಾಯತ್ ನಡೆಯಿತು, ಆಗ ನಾನು ಈ ಕೆಳಕಂಡಂತೆ ಹೇಳಿದೆ:

11. It is alleged that, on 04.04.2023 it is informed to the complainant and his son that deceased Mahananda has consumed pesticide. She was taken to the Government Hospital, Kalaburag. When the complainant came to Kotanoor Math they noticed that Mahananda was no more. Therefore, an CRL.P No. 200473 of 2023 allegation is made against the accused persons that this present petitioner is involved in the commission of the offence.

12. On perusal of the complaint averments the allegation against the present petitioner is that "....ಇಲಾಖೆಗೆ ಹೇಳಿರುವಂತಹದಾಗಿ, ಪತ್ನಿಯು ನಾನು ಮತ್ತು ಇತರರನ್ನು ಹಿಂಸಿಸಿದಳು ಮತ್ತು ನಾನು ಅವಳಿಗೆ ಹೆಚ್ಚಿನ ದ್ರವ್ಯವನ್ನು ತರುವಂತಹದಾಗಿ ಒತ್ತಾಯಿಸಿದೆ. ಅಂತಹ ಸಂದರ್ಭಗಳಲ್ಲಿ, ಪಂಚಾಯತ್ ನಡೆಯಿತು, ಆಗ ನಾನು ಈ ಕೆಳಕಂಡಂತೆ ಹೇಳಿದೆ:

13. According to the petitioner, he is aged 51 years and is a law abiding citizen. From the date of arrest i.e., on 05.04.2023 he is in judicial custody. He is the only earning member of the family. It is submitted that, the if the petitioner is not enlarged on bail his family will be put to great hardship.

14. As rightly submitted by the learned counsel for the petitioner, there are no accusations against present petitioner that, he is involved in persistent harassment, ill-treatment on the deceased at any point of time i.e., except the say that, they know how to treat woman, there are no allegations against him.

15. Learned High Court Government Pleader submits that, investigation is still going on and if the petitioner is

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CRL.P No. 200473 of 2023 enlarged on bail, he may tamper with the prosecution evidence and it will cause hindrance to the investigation.

16. On perusal of the statement of objections filed by the learned High Court Government Pleader, these are all the formal objection raised by the respondent to every bail application. There are no serious allegations are made against the petitioner. Law with regard to grant/refusal of bail is almost settled.

17. Law with regard to grant of bail is very much settled in the judgment of the Hon'ble Apex Court in the case of Dattaram Singh v. State of Uttar Pradesh reported in (2018) 3 SCC 22.

"A fundamental postulate of criminal jurisprudence is the presumption of innocence,

meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant

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CRL.P No. 200473 of 2023 of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society." Yet in another judgment of the Hon'ble Supreme Court in Arnesh Kumar v. State of Bihar reported in (2014) 8 SCC 273, which makes it mandatory that in any case where the offence is punishable with imprisonment for a term which may extend to 7 years, the accused may not be automatically arrested and the Magistrate may not authorize the detention casually and mechanically.

18. By applying the principles so stated in the above judgments, if the petitioner is granted bail, with conditions, it would meet the ends of justice. Hence, petitioner is held entitled for bail.

Resultantly, I pass the following :

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CRL.P No. 200473 of 2023 ORDER The bail petition filed by the petitioner under Section 439 of Cr.P.C is allowed.

Petitioner is directed to be enlarged on regular bail in Crime No.31/2023 of Ferhatabad Police Station, Kalaburagi pending on the II Addl. Civil Judge and JMFC, Kalaburagi registered for the offences punishable under Sections 143, 498(A), 304(B) read with Section 149 of Indian Penal Code, subject to following;

CONDITIONS

1. The petitioner shall execute a personal bond for a sum of `1,00,000/- with two sureties for like sum to the satisfaction of the jurisdictional Court;
2. The petitioner shall not threaten or tamper the prosecution witnesses;
3. The petitioner shall mark his attendance before the respondent's police once in a week preferably on Sunday between 8.00 a.m. and 4.00 p.m., and sign a register to be maintained by the Station House Officer to that effect;
4. The petitioner shall not involve in similar offences;
5. The petitioner shall appear before the Investigating Officer as and when called upon for the purpose of further investigation and co-operate for investigation.

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CRL.P No. 200473 of 2023 Breach of any of these conditions would entail cancellation of bail.

Sd/-

JUDGE SN