

Karnataka High Court

Anand Shyam Kamble vs The State Of Karnataka on 26 May, 2023

Bench: K.Natarajan

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CRL.P No. 3723 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MAY, 2023

BEFORE

THE HON'BLE MR JUSTICE K.NATARAJAN  
CRIMINAL PETITION NO. 3723 OF 2023

BETWEEN:

ANAND SHYAM KAMBLE  
S/O SHYAM KAMBLE  
NOW AGED ABOUT 34 YEARS  
R/O BASTHIPURA VILLAGE  
KOLLEGALA TALUK  
CHAMARAJANAGAR DISTRICT-571443

NATIVE ADDRESS  
THIRTHA VILLAGE  
ATHANI TALUK  
BELAGAVI DISTRICT-591304.

...PETITIONER

(BY SRI.CHANDRASHEKARA K A., ADVOCATE)

Digitally signed by  
GAYATHRI N  
Location: High  
Court of Karnataka

AND:

THE STATE OF KARNATAKA  
BY THE POLICE OF KOLLEGALA TOWN POLICE  
STATION,  
CHAMARAJANAGARA DISTRICT-571443  
REPRESENTED BY SPP  
HIGH COURT OF KARNATAKA  
BENGALURU-560001

...RESPONDENT

(BY SRI. B.J. ROHITH, HCGP)

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CRL.P No. 3723 of 2023

THIS CRL.PEITITION IS FILED U/S.439 CR.P.C

PRAYING TO ENLARGE THE PETITIONER ON BAIL IN  
CR.NO.23/2022 OF KOLLEGALA TOWN POLICE STATION,  
CHAMARAJANAGARA DISTRICT, NOW PENDING IN  
SC.NO.5042/2022 ON THE FILE OF THE ADDL. DISTRICT  
AND SESSIONS JUDGE CHAMARAJANAGARA (SITTING AT  
KOLLEGALA) FOR THE OFFENCE P/U/S 498A,302,304B  
AND 201 R/W 34 OF IPC AND SEC. 3 AND 4 OF DP ACT  
1961.

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

ORDER

This petition is filed by the petitioner-accused No.1 under Section 439 of Cr.P.C. for grant of regular bail in S.C.No.5042/2022 pending on the file Additional District and Sessions Judge, Chamarajanagara (Sitting at Kollegala) for the offence punishable under Sections 498A, 302, 304B, 201 read with Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961, arising out of Crime No.23/2022 registered by Kollegal Town Police.

2. Heard the learned counsel for the petitioner and the learned High Court Government Pleader for the respondent-State.

CRL.P No. 3723 of 2023

3. The case of the prosecution is that on the complaint filed by the father of the deceased one Sri.Chidananda Vittal Kamble, the police have registered the case on 15.03.2022. It is alleged that his daughter Smt.Vidyashree married to the petitioner on 11.07.2019. At that time of marriage he gave dowry and gold ornaments to the petitioner. The petitioner-accused was working as PDO in Hoogya Panchayat, Kollegal and subsequently, on the demand, the complainant has paid a sum of Rs.2,00,000/- to the accused. On 14.03.2022 the deceased spoken to the complainant and told that the petitioner-accused is harassing her and subsequently he came to know that she died due to hanging and he has lodged the compliant with the respondent Police stating that the petitioner has harassed his daughter and committed her murder and based on the complaint, the Police registered the FIR and arrested the petitioner on 15.03.2022 and he was remanded to judicial custody. His previous bail petition in Crl.P.6773/2022 came to be rejected by this Court on 12.09.2022, now the petitioner is CRL.P No. 3723 of 2023 before this Court by filing successive bail petition on additional grounds.

4. Learned counsel for the petitioner has contended that subsequent to rejection of bail petition of this petitioner, accused No.2 has been granted bail by a coordinate Bench of this Court. The petitioner is in custody for more than 1 year 2 months, the trial has already begun; eight (08) witnesses have been examined and none of the witnesses have supported the case of the prosecution and except the Investigating Officer and the Doctor no other witnesses are to be examined. The petitioner is ready to abide by any conditions to be imposed by this Court and hence, seeks for grant of bail.

5. Per contra, learned High Court Government Pleader for the respondent-State objected the bail petition contending that the petitioner-accused has won-over the family members of the deceased and they have turned hostile. The trial is under progress, therefore, it is not a fit CRL.P No. 3723 of 2023 case for grant of bail at this stage. Hence, prays for dismissal of the bail petition.

6. Having heard the arguments of the learned counsel for the petitioner and the learned High Court Government Pleader of the respondent and perusal of the records, it reveals that the petitioner and the deceased were resided together in the house and there was prior demand of dowry and harassment by this petitioner on the deceased and subsequently on 14.03.2022 the deceased telephoned to the complainant-father and informed about the harassment and on the very same day she was found dead. The Post Mortem examination report reveals that there is a manual strangulation and thereafter hanged the deceased. The offence punishable under Section 302 of IPC is made out against the petitioner and he has to explain how the death was caused, which is within the special knowledge of the petitioner-accused as per Section 106 of Indian Evidence Act. However, in respect of the circumstantial evidences, demand of dowry and CRL.P No. 3723 of 2023 harassment, the family members of the deceased especially parents and siblings are all turned hostile. Almost eight (08) witnesses were examined and they are turned hostile and not supported the case of the prosecution case. Only the official witnesses viz., the Doctor, the Police Officials and Investigating Officer is to be examined in the case. The petitioner is in custody for almost 1 year 2 months. The trial may take some more time for conclusion. Therefore, if the petitioner is released on bail by imposing reasonable conditions, no prejudice would be caused to the prosecution. Accordingly, I pass the following:

ORDER The criminal petition is allowed.

The trial Court is directed to release the petitioner/accused on bail in S.C.No.5042/2022 pending on the file Additional District and Sessions Judge, Chamarajanagara (Sitting at Kollegala) for the offence punishable under Sections 498A, 302, 304B, 201 read with CRL.P No. 3723 of 2023 Section 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961, arising out of Crime No.23/2022 registered by Kollegal Town Police, subject to the following conditions:-

- i) Petitioner shall execute a personal bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for likesum to the satisfaction of the jurisdictional Court;
- ii) Petitioner shall not tamper with the prosecution witnesses directly or indirectly;
- iii) Petitioner shall take the trial without causing any delay; and
- iv) Petitioner shall not leave the jurisdiction of the trial Court without prior permission.

Sd/-

**JUDGE BSR**