

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF DECEMBER, 2018

BEFORE

THE HON'BLE MR. JUSTICE H. P. SANDESH

CRIMINAL PETITION NO. 9573/2018

BETWEEN:

Nagaraju G.V.
S/o Venkateshaiah,
Aged about 27 years,
R/a. Gantehosahalli,
Sompura Hobli,
Nelamangala Taluk,
Bengaluru Rural District – 562 123.

...Petitioner

(By Sri. Chandrashekar K.A., Adv.)

AND:

The State of Karnataka,
By the Police of Dobbaspeth Police Station,
Nelamangala Taluk,
Bengaluru Rural District – 562123.

Represented by SPP,
High Court of Karnataka,
Bengaluru – 560 001.

....Respondent

(By Sri. Divakar Maddur, HCGP)

This criminal petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.59/2018 (C.C.No.2473/2018) of Dobbaspeth P.S. Bengaluru District for the offence P/U/S 498A, 323, 504, 307 of IPC and Sections 3, 4 of D.P. Act.

This criminal 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. seeking his release on bail for the alleged offence punishable under Sections 498A, 323, 504 and 307 of IPC read with Sections 3 and 4 Dowry Prohibition Act, registered by the respondent – police station in Crime No.59/2018.

2. I have heard the learned counsel for the petitioner and also learned HCGP for respondent-State.

3. The allegations in the complaint are that on 01.03.2018 at 5.00 p.m., the petitioner herein poured the kerosene on the complainant and accused No.2 lit the fire on her body and thereby committed the offence. Based on the statement of the victim/complainant dated 09.03.2018, the police have registered the case in Crime No.59/2018 for the offence punishable under Sections

498A, 323, 504 and 307 of IPC read with Sections 3 and 4 Dowry Prohibition Act,

4. The contention of the petitioner is that he is innocent of the offences alleged against him and there is inordinate delay in setting the law into the motion. The incident has taken place on 01.03.2018 and the complaint was given on 09.03.2018 and history was given in the complaint is that burst of stove at the residence on 01.03.2018 and thereafter, on 09.03.2018, the case has been improved that petitioner poured the kerosene on the complainant and accused No.2 lit the fire. The other contention of the petitioner is that he is in custody from 02.08.2018 and investigation has already been completed and there is no need of custodial enquiry. The relationship between the complainant and the petitioner is husband and wife. He further contended that the accused is ready to abide by the conditions that may be imposed by this Court.

5. Per contra, learned HCGP for the respondent in his arguments contends that the petitioner has poured the kerosene on the victim and instructed his mother, who has been arrayed as accused No.2 to lit the fire and she lit the fire, as a result, the complainant sustained burnt injury to the extent of 30% to 40%. He also contends that the wound certificate, which is produced by the petitioner diagnosis 29% superficial to deep thermal injury over facial involvement and the injuries are grievous in nature and hence, the petitioner is not entitled for the bail.

6. Having heard the learned counsel for the petitioner and also the learned HCGP for respondent, the point that arises for my consideration is:-

“Whether the petitioner has made out the ground under section 439 of Cr.P.C to grant the bail for the offence punishable under Sections 498A, 323, 504 and 307 of IPC read with Sections 3 and 4 Dowry Prohibition Act?”

7. The main allegations in the complaint are that the petitioner/husband has demanded an additional dowry of Rs.5,000/-. At the time of marriage, the complainant's family has given Rs.50,000/- apart from gold ornaments and the incident has taken place, when she refused to get the dowry of Rs.5,000/-. The injured was immediately shifted to hospital on the same day and the statement of the injured was recorded in the hospital on 09.03.2018, after eight days of the incident. The complaint was not given immediately with the police and the wound certificate, which is produced shows that she has sustained burnt injury over the front of the neck and other three injuries. She was admitted to the hospital on 02.03.2018 and discharged on 12.03.2018. Accused No.2-mother of the petitioner has already been granted bail by invoking Section 438 of Cr.P.C. The investigation has already been completed and charge-sheet is also filed and the fact that whether the petitioner has poured the kerosene and his mother lit the fire has to be ascertained during the trial.

8. Having considered the fact that the investigation has already been completed and the petitioner is in custody from 02.08.2018, I am of the view that the accused No.1 deserves to be enlarged on bail by imposing some conditions. The main offences alleged against the accused is 307 of IPC and whether he has tried to take life of the complainant can be gathered during the trial and hence, I am of the opinion that this Court can exercise the power under Section 439 of Cr.P.C.

9. Accordingly, the petition is allowed. Petitioner/accused No.1 is ordered to be released on bail for the offence punishable under Sections 498A, 323, 504 and 307 of IPC read with Sections 3 and 4 Dowry Prohibition Act, registered by the respondent – police station in Crime No.59/2018, subject to the following conditions:

- a. Petitioner shall execute a personal bond for a sum of Rs.50,000/- with

two sureties for the likesum to the satisfaction of the concerned Court.

- b. Petitioner shall not tamper with any of the prosecution witnesses, directly or indirectly.
- c. The petitioner shall not leave the jurisdiction without prior permission of the concerned Court.

**Sd/-
JUDGE**

MBM