

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY 2019

BEFORE

THE HON'BLE MR. JUSTICE B.A. PATIL

CRIMINAL PETITION No.3388 OF 2019

BETWEEN:

Vinayaka C.
S/o late O. Chandrashekharachar
Aged about 31 years
Occ: Medical Representative
In DMP Company
R/at No.57/5, Bagedibba Circle
Kalikadevi Road
Davanagere City – 577 001. ...Petitioner

(By Sri. Gopala Krishnamurthy C., Advocate)

AND

The State of Karnataka
Women Police Station
Davanagere. ...Respondent

(By Sri. K. Nageshwarappa, HCGP)

This Criminal Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in CR.No.176/2018 of Women Police Station, Davanagere District for the offence punishable under Sections 304-B, 506, 498A read with 34 of IPC and Section 3, 4 of D.P.Act.

This Criminal Petition is coming on for *Orders*, this day, the Court made the following:

ORDER

The present petition has been filed by the petitioner/accused under Section 439 of Code of Criminal Procedure seeking to enlarge him on bail in Crime No.176/2018 of Women Police Station, Davanagere for the offences punishable under Sections 498-A, 506 and 304-B read with 34 of IPC and under Sections 3 and 4 of Dowry Prohibition Act, 1961.

2. I have heard the learned counsel for the petitioner and learned High Court Government Pleader for the respondent-State.

3. The gist of the complaint is that the deceased was given in marriage to accused No.1 on 08.06.2018. At the time of marriage a sum of Rs.35,000/-, gold and Silver was given as dowry and all the marriage expenses were borne by the complainant. After the marriage for about fifteen days they were cordial and thereafter,

petitioners started ill-treating and harassing the victim both physically and mentally and demanded to bring additional dowry. It is further alleged that accused No.1 used to tell the victim that he will commit her murder and he would get marry with another woman. The deceased was informing the complainant about the said ill-treatment and harassment.

4. In that light, on 16.10.2018 at about 11:28 p.m. accused No.1 informed the complainant about the suicide committed by the deceased in their house by hanging. Immediately the complainant and other family members went there and by noticing that their daughter was expired, complaint has been filed. On the basis of the complaint a case has been registered.

5. It is the contention of the learned counsel for the petitioner/accused No.1 that this Court has granted bail to accused No.2/mother of accused No.1 on 12.03.2019. On the ground of parity, the petitioner/accused No.1 is also entitled to be released on bail. Earlier Section 302 was also included and

subsequently, charge sheet has been file and in the charge sheet 302 has been deleted and accused has been charge sheeted under Section 304-B of IPC. It is further submitted that accused No.2 is the mother of accused No.1, she is aged and nobody is there to look after her and the petitioner/accused No.1 alone has to look after her and there are no criminal antecedents against petitioner/accused No.1. The trial has not yet begun and it may take some more time. The accused/petitioner is ready to abide by any conditions which may be imposed by this Court and ready to offer sureties. On these grounds, he prayed to allow the petition.

6. It is his further submission that petitioner/accused No.1 is an innocent, he has been falsely implicated in the said case and he is entitled to be released on bail.

7. Per contra, the learned High Court Government Pleader vehemently argued and submitted that petitioner/accused No.1 has not made out any changed circumstances to file a fresh bail application.

This Court by order dated 12.03.2019 has dismissed the application filed by the petitioner/accused No.1. It is his further submission that the death of the deceased has taken place within four months after the marriage, even since from beginning there was ill-treatment and harassment caused by the petitioner/accused No.1 and because of that she committed suicide. Further, the death of the deceased has taken place in the matrimonial house and accused No.1 has to come up with explanation under Section 106 of Evidence Act to show under what circumstances the deceased has committed suicide in the matrimonial house. He further submitted that there is no proper explanation of accused No.1 on this point. It is further submitted that there is a presumption in law, if the death takes place within seven years of marriage then it is a dowry death. On these grounds, he prayed to dismiss the petition.

8. I have carefully and cautiously gone through the submission of the learned counsel appearing for the

petitioner and learned High Court Government Pleader for the respondent-State and perused the records.

9. On perusal of the contents of the complaint and other material, marriage of the deceased took place along with accused No.1 and thereafter the petitioner/accused-1 started ill-treating and harassing for additional demand of dowry and even accused No.1 used to tell deceased that he will commit her murder and he would get marry with another woman and also threatened her with life and dire consequences. In that light, the deceased committed suicide on 16.10.2018 at about 11:28 p.m. There is ample material to show that it is because of ill-treatment and harassment caused by petitioner/accused-1 with the deceased, she committed suicide in the matrimonial home. No explanation was given by accused No.1 under what circumstances the deceased committed suicide.

10. This Court by considering the facts and circumstances and material placed on record, has already come to the conclusion that there is an ample material as

against petitioner/accused No.1 as such the bail petition came to be dismissed.

There are no good grounds made by the petitioner/accused No.1 to grant bail. Hence, petition stands ***dismissed.***

Sd/-
JUDGE

BVK/NR