

IN THE HIGH COURT OF KARNATAKA  
KALABURAGI BENCH

DATED THIS THE 31<sup>ST</sup> DAY OF MARCH 2022

BEFORE

**THE HON'BLE MR.JUSTICE K.SOMASHEKAR**

**CRIMINAL PETITION No.200308/2022**

Between:

Basawaraj S/o Sharanapa Naduvinahalli  
Age: 30 years, Occ: Agriculture  
R/o Village Kachapur, Tq. Shorapur  
Dist. Yadgir-585224

... Petitioner

(By Sri Nandakishore Boob, Advocate)

And:

The State through  
Kembhavi P.S  
Now representing by Additional SPP  
HCKB at Kalaburagi

... Respondent

(By Sri Gururaj V. Hasilkar, HCGP)

This Criminal Petition is filed under Section 439 of Cr.P.C., praying to direct the respondent police to release the A.No.1/petitioner on bail, in Crime No.113/2021 of Kembhavi Police Station, for the offences punishable under Sections 498(A), 304 (B) and 306 r/w 149 of IPC and 4 of

DP Act, pending on the file of Dist. & Sessions Judge at Yadgir in SC No.01/2022.

This petition coming on for orders this day, the Court made the following:

**ORDER**

This petition is filed by accused Basawaraj under Section 439 of Cr.P.C. in CC No.351/2021 arising out of Crime No.113/2021 of Kembhavi Police Station for the offences punishable under Sections 498(A), 304(B), 306 of Indian Penal Code, 1860 besides Section 4 of the Dowry Prohibition Act, 1961. The petitioner/accused is in judicial custody since from the date of his arrest and therefore, seeking regular bail urging various grounds.

2. Heard the learned counsel for the petitioner and so also the learned High Court Government Pleader for the State. Perused the material placed on record.

3. Learned counsel Sri Nandakishore Boob for the petitioner taken me through the role of the petitioner/accused and more so the accused is none other than the husband of the deceased Boramma and her marriage was performed with him as per the customs prevailing in their society and more so they are the relatives to each other. Subsequent to her marriage she has given birth to two children aged 2 years and 1 year respectively and the minor children are in the care and custody of their grand mother namely Basamma who was also arraigned as accused in the FIR said to have been recorded by the Kembhavi Police Station in Crime No.113/2021.

4. The marriage of petitioner/accused was performed with the deceased and they were leading happy married life. But she used to inform her parents telephonically that her husband Basavaraj and also her in-laws namely Sharanappa father-in-law and

Basamma mother-in-law and so also Ningamma sister-in-law as well as her husband Rudragouda including her daughter Aishwarya have given physical as well as mental harassment to her and also insisting her to bring additional dowry from her parents house. The deceased Boramma had come to the house of her parents for the purpose of giving birth of child and she had stayed there for seven months. Subsequently on 05.06.2021 she went to the village Kachapur to reside along with her husband. However, made an allegation against the accused that they have insisted her to bring additional dowry from her parents house. That on 03.08.2021 due to the physical as well as mental harassment given by the accused, the complainant's daughter Boramma has consumed pesticide and due to that she was shifted to Government Hospital, Kembhavi, wherein doctor had advised to shift her to the hospital situated in Surpur

for better treatment. But she had lost her breath at around 2.30 p.m. Subsequent to her death, criminal law was set into motion and case was registered against the accused, whereby the Investigating Officer has investigated the case and laid the charge sheet against this petitioner -Basawaraj who is arraigned as accused. But accused Nos.2 to 6 were not sent up for trial and charge sheet has not been laid against them. Based upon the statement of witnesses recorded, the Investigating Officer found that there was no specific material against co-accused Nos.2 to 6.

5. It is further contended that the charge sheet has been laid against the accused even for the offences punishable under Sections 304(B) and 306 of IPC. But there is no specific material in terms of direct overt act attributed against the accused and more so the accused having responsibility to maintain

his two minor children who are in care and custody of his mother namely Basamma.

6. The accused is in judicial custody since from the date of his arrest and more so the accused is ready to abide any terms and conditions to be imposed by this Court while granting bail to him and more so the accused is required to face trial in S.C.No.1/2022 which is pending before the Court of District and Sessions Judge at Yadgir. On all these premise, the learned counsel for the accused seeks regular bail.

7. *Per contra*, learned High Court Government Pleader for State taken me through the charge sheet laid by the Investigating Officer against the accused and more so the charge sheet material reflected the substance in the FIR said to have been recorded by the police and having jurisdiction as there is a role

played by this accused causing the death of the deceased, whereby she had consumed pesticide. This accused as well as other accused who are the inmates of his house used to extend physical and mental harassment to the deceased and also used to insist her to bring additional dowry from her parents house despite of considerable dowry being received during the marriage of the deceased Boramma and the same has been provided by her parents. These are all the allegations as made against this accused and more so if the accused is supposed to be released on bail, certainly he would come in the way of the prosecution case and destroy the evidence. On all these premise, the learned High Court Government Pleader submits that the accused do not deserve for bail and consequently prays to reject this bail petition filed by the accused.

8. It is in this context of the contention made by the learned counsel for the petitioner by referring the material collected by the Investigating Officer during the course of investigation and laid charge sheet against the accused and so also the counter made by the learned High Court Government Pleader for State. Deceased Boramma who is none other than the daughter of the complainant and whereby her marriage was performed with this petitioner/accused as per the customs prevailing in their society. Subsequent to her marriage she gave birth to two children aged 2 years and 1 year respectively. Subsequent to death of the deceased, these children are in care and custody of their grand mother namely Basamma. This submission is made by the learned counsel for the petitioner. Basamma was also arraigned as accused in FIR said to have been recorded by the police but subsequent to recording



the statement of witnesses during the course of investigation, the name of the co-accused Nos.2 to 6 were dropped and also no charge sheet has been laid against the said accused. Accused Nos.2 and 3 are the parents of this accused Basavaraj and so also the parents of accused No.4 Ningamma. Accused No.5 Rudragouda is the son-in-law of accused Nos.2 and 3. Accused No.6 Aishwarya wife of Ramesh and whereby Ramesh is none other than brother of this accused Basavaraj. But for the death of the deceased, the family members of the petitioner were also arraigned as accused Nos.2 to 6. The deceased Boramma had made allegation before her parents saying as that her husband insisting her to bring additional dowry from her parents' house despite receipt of considerable dowry and more so meted out physical as well as mental harassment to her. Due to which she had consumed pesticide and while she was carried to the

Government Hospital, Kembhavi wherein doctor had advised to shift her to the hospital situated in Surpur for better treatment to provide her. But she has lost her breath at around 2.30 p.m. and while she was being shifted from there to Government Hospital situated in Surpur. Subsequent to her death, criminal law was set into motion and case was registered against the accused in Crime No.113/2021 by Kembhavi police by recording FIR dated 03.08.2021 in respect of the offences punishable under Sections 498A, 304B read with Section 149 of IPC besides Sections 3 and 4 of D.P. Act. But in the charge sheet the offence under Section 3 of the D.P. Act has not been stated. In the charge sheet the offence punishable under Section 306 of IPC was included. The same has been seen in the material available on record.

9. The dead body of Boramma had been sent to the hospital to conduct postmortem examination. Accordingly, postmortem was conducted and postmortem report was issued wherein the cause of death was shown as due to consuming pesticide. The petitioner who is none other than the husband of the deceased and her brother-in-law namely Rudragouda and also his wife Ningamma have brought the deceased Boramma to the Government Hospital Kembhavi in order to provide treatment to her and thereafter she was shifted to Surpur hospital to provide better treatment to her to save her life but she had lost her breath.

10. It is relevant to state that the deceased Boramma was blessed with two minor children and these children are in care and custody of Basamma who is none other than the mother of this accused. The two minor children have already lost the

passionate of their mother Boramma and more so their father who is arraigned as accused is in judicial custody since from the date of his arrest. Therefore, without expressing any opinion on the merits of this matter and so also it is not required to dwell in detail about the allegation made against the accused by referring the statement of witnesses and so also other material collected by the Investigating Officer during the course of investigation, having gone through the material collected by the Investigating Officer in order to lay the charge sheet, the accused deserves to be released on bail. Whereas the learned High Court Government Pleader for State submitted that if the accused is supposed to be released on bail, certainly he would come in the way of the prosecution case and destroy the evidence and this apprehension could be curtailed by imposing suitable conditions to safeguard the interest of the prosecution. In terms of the

foresaid reasons and findings, I proceed to pass the following:

**ORDER**

The bail petition filed by the petitioner/accused under Section 439 of Cr.P.C. is hereby allowed and the petitioner/accused is directed to be released on bail subject to the following conditions:

- (i) The petitioner/accused shall execute personal bond in a sum of Rs.1,00,000/- (Rupees One Lakh Only) each with a likesum surety to the satisfaction of the trial Court in S.C.No.1/2022;
- (ii) The petitioner/accused shall not hamper or tamper the prosecution witnesses;
- (iii) The petitioner/accused shall appear before Court on all the dates of hearing without fail.
- (iv) The petitioner/accused shall mark his attendance once in a month i.e., on the first week of Sunday in between 10.00 a.m. and 5.00 p.m.

before the concerned S.H.O. pending disposal of the case in S.C.No.1/2022.

(v) The petitioner/accused shall not indulge in any criminal activities henceforth.

(vi) The petitioner/accused shall not leave the jurisdiction of Yadgir district without prior permission from the competent Court of law.

If the petitioner/accused violates any of the conditions, the bail order shall automatically stand ceased.

**SD/-  
JUDGE**

swk