



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 16<sup>TH</sup> DAY OF MARCH, 2023**

**BEFORE**

**THE HON'BLE MRS JUSTICE M G UMA**

**CRIMINAL PETITION NO. 1861 OF 2023**

**BETWEEN:**

MANJU SWAMY M.B. @  
MANJUNATHASWAMY. M.B.  
S/O BASAVARAJU  
AGED ABOUT 30 YEARS  
R/AT, CHIMMANAHALLI KAVAL  
DANDINASHIVARA HOBLI  
DODDAGORAGHATTA POST  
TURUVEKERE TALUK  
TUMKURU DISTRICT - 572 220

...PETITIONER

(BY SRI: .K.B.K. SWAMY, ADVOCATE)

**AND:**

STATE BY KARNATAKA  
DANDINASIVARA POLICE STATION  
TURUVEKERE, TUMKURU DISTRICT - 572 220  
(REPRESENTED BY  
STATE PUBLIC PROSECUTOR  
HIGH COURT OF KARNATAKA  
BENGALURU.)

...RESPONDENT

(BY SRI: RAHUL RAI .K., HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439  
CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN  
CR.NO.81/2022 REGISTERED BY DANDINASHIVARA POLICE  
STATION, TUMAKURU FOR THE OFFENCE PUNISHABLE UNDER  
SECTIONS 498(A), 304(B) READ WITH SECTION 34 OF IPC AND  
SECTIONS 3 AND 4 OF DOWRY PROHIBITION ACT PENDING ON THE  
FILE OF V ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIPTUR IN  
S.C.NO.10001/2023.



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

**ORDER**

The petitioner-accused No.1 is before this Court seeking grant of bail under Section 439 of Cr.P.C. in Crime No.81 of 2022 of Dandinashivara Police Station, pending in SC No.10001 of 2023 on the file of V Additional District and Sessions Judge, Tiptur, registered for the offences punishable under Sections 498-A, 304-B read with Section 34 of the Indian Penal Code (for short 'IPC'), on the basis of the first information lodged by the informant R S Dharshan.

2. Heard Sri K B K Swamy, learned counsel for the petitioner and Sri K Rahul Rai, learned High Court Government Pleader for the respondent -State. Perused the materials on record.

3. Learned counsel for the petitioner submitted that the petitioner is arrayed as accused No.1. He is innocent and has not committed any offences as alleged. He has been falsely implicated in the matter without any basis. He was apprehended on 06.10.2022 and since then he is in judicial custody. Accused Nos.2 and 3 who are the parents of the



petitioner are already enlarged on bail. The investigation has been completed and the charge sheet is also filed. As per the post mortem report, there are no external injuries found on the body of the deceased and the cause of death is due to asphyxia as a result of hanging by ligature. There were no earlier complaint against the petitioner, on the other hand, the petitioner had filed a petition under Section 13 of Hindu Marriage Act seeking for divorce and deceased had filed the petition seeking restitution of conjugal rights. Both the petitions are still pending. In the meantime, the deceased had came to the house of the petitioner and committed suicide. The petitioner is no way concerned to the offences in question. Detention of the petitioner in custody would amount to pre-trial punishment. The petitioner is the permanent resident of the address mentioned in the cause title to the petition and is ready and willing to abide by any of the conditions that would be imposed by this Court. Hence, he prays to allow the petition.

4. *Per contra*, learned High Court Government Pleader opposing the petition submitted that serious allegations are made against the petitioner for having committed the offences. The petitioner had married the deceased on 16.11.2016.



Within 6 years of the marriage, the deceased died in an unnatural manner. Soon before her death, she was subjected to cruelty by the petitioner and other accused. CWs.6 to 10 who are the eye witnesses have spoke about the ill-treatment meted to the deceased by the petitioner. Moreover, CW6 is the friend of the petitioner, CW7 is the neighbour and CW8 is the worker who was working under the petitioner. Under such circumstances, there is every chance of witnesses being influenced by the petitioner. Therefore, the petitioner is not entitled for grant of bail. Hence, he prays for dismissal of the petition.

5. In view of the rival contentions urged by the learned counsel for both the parties, the point that would arise for my consideration is:

*"Whether the petitioner is entitled for grant of bail under Section 439 of Cr.P.C.?"*

My answer to the above point is in 'Affirmative' for the following:



### **REASONS**

6. The allegations made against the petitioner is of serious nature. Initially, FIR came to be registered on the basis of the first information lodged by the informant who is the brother of the deceased. During investigation, the petitioner was apprehended. Now the investigation is completed and the charge sheet is filed. Admittedly, the deceased died due to hanging. The post mortem report discloses that there was no external injuries on the body of the deceased and the death was due to asphyxia as a result of hanging by ligature. CWs.6 to 10 are said to be eye witnesses who spoke about the ill-treatment meted to the deceased by the petitioner and other accused. These materials are sufficient to hold that there are prima facie materials to constitute the offences against the petitioner and it cannot be said that the petitioner has been falsely implicated in the matter.

7. Admittedly, there were no complaint earlier to filing of the present complaint. It is not the contention of the prosecution that the petitioner is required to be detained for any purpose except to ensure his presence before the Trial



Court. However, CWs.6 to 8 are either friend, neighbour or worker under the petitioner. The apprehension expressed by the learned High Court Government Pleader that the petitioner may influence the witnesses is very reasonable. But the same cannot be a reason to detain the petitioner in custody, as the same would amount to infringement of his right to life and liberty. Hence, I am of the opinion that the petitioner is entitled to be enlarged on bail subject to conditions, which will take care of the apprehension expressed by the learned High Court Government Pleader that the petitioner may abscond or may tamper or threaten the prosecution witnesses.

8. Accordingly, I answer the above point in the affirmative and proceed to pass the following:

**ORDER**

The petition is ***allowed.***

The petitioner is ordered to be enlarged on bail in Crime No.81 of 2022 of Dandinashivara Police Station, pending in SC No.10001 of 2023 on the file of V Additional District and Sessions Judge, Tiptur, on obtaining the bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for



the likesum to the satisfaction of the jurisdictional Court,  
subject to the following conditions:

- a). The petitioner shall not commit similar offences.
- b). The petitioner shall not threaten or tamper with the prosecution witnesses.
- c). The petitioner shall appear before the Court as and when required.

If in case, the petitioner violates any of the conditions as stated above, the prosecution will be at liberty to move the Trial Court seeking cancellation of bail.

On furnishing the sureties by the petitioner, the Trial Court is at liberty to direct the Investigating Officer to verify the correctness of the address and authenticity of the documents furnished by the petitioner and the sureties and a report may be called for in that regard, which is to be submitted by the Investigating Officer within 5 days. The Trial



Court on satisfaction, may proceed to accept the sureties for the purpose of releasing the petitioner on bail.

**Sd/-  
JUDGE**

\*bgn/-