

**[IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH**

DATED THIS THE 12TH DAY OF JUNE 2017

BEFORE

THE HON'BLE MR. JUSTICE BUDIHAL. R.B

CRIMINAL PETITION NO.101050/2017

BETWEEN:

VIDYARANAYA S/O DUNDAYYA HIEMATH
AGE: 31 YEARS, OCC: PRIVATE SERVICE,
R/O KAMANAKER, BUDIHAL,
TQ: B. BAGEWADI, DIST. VIJAYAPUR.
...PETITIONER

(BY SRI. SHRIHARSH A. NEELOPANT ADV.)

A N D :

THE STATE OF KARNATAKA
REP BY THE CPI,
HUBBALLI-DHARWAD WOMEN POLICE
STATION, THROUGH SPL PUBLIC
PROSECUTOR HIGH COURT OF KARNATAKA
DHARWAD.

...RESPONDENT

(BY SRI. PRAVEEN K. UPPAR, HCGP.)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 OF CR.P.C., SEEKING TO ENLARGE THE PETITIONER ON BAIL IN CASE OF HIS ARREST PURSUANT TO CRIME NO.13 OF 2017 OF WOMEN POLICE STATION HUBBALLI-DHARWAD FOR THE OFFENCES PUNISHABLE UNDER SECTION 498(A), 376, 318, 504, 506, 494 READ WITH SEC.

35 OF IPC AND UNDER SEC. 3 AND 4 OF DOWRY PROHIBITION ACT.

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 438 of Cr.P.C. seeking anticipatory bail, to direct the respondent Police to release the petitioner on bail in the event of his arrest of the alleged offences punishable under Sections 498A, 376, 318, 504, 506, 494 of IPC read with 35 of IPC and Sections 3 and 4 of Dowry Prohibition Act registered in respondent Police Station Crime No.13/2017.

2. Brief facts of the prosecution case are that the complainant married petitioner/accused No.1 in the year 2013, even earlier to that she was knowing accused No.1; the complainant and accused No.1 were studied in the same college. On 21.08.2007, accused No.1 took her to a rented premises and had sexual intercourse with her though he was aware that she was aged about

16 years; accused No.1 used to give assurance to her that he is going to marry her and used to have sexual intercourse with her. Thereafter, accused No.1 started residing from November 2009 in the room belonging to his friend. It is further alleged that she came to know that she is pregnant in the month of June and accused No.1 along with his friend took her to one Doctor and forcibly got her aborted. It is also alleged that accused No.1 gave mobile phone and he is to have contact with her, at that time, she was studying in V Semester of Diploma. There was marriage talks for the marriage of the complainant with accused No.1. Subsequently, they got married and it is registered in the Office of the Sub-registrar, Dharwad on 28.08.2013. Thereafter, accused No.1 started to insist her to bring dowry amount of Rs.60,000/- and he was also giving ill-treatment and harassment to her along with his family members. On the basis of the said complaint, case came to be registered for the alleged offences.

3. Heard the arguments of the learned counsel appearing for the petitioner-accused No.1 and also the learned HCGP appearing for the respondent-State.

4. I have perused the grounds urged in the bail petition, FIR, complaint and the order passed by the learned Sessions Judge rejecting the bail application of the petitioner and other materials produced along with the petition.

5. The allegations in the very complaint shows that the act of alleged forcible sexual intercourse is said to have taken place in the year 2007. Subsequently, there was marriage between the complainant and accused No.1 in the year 2013; the couple resided together in the house of petitioner/accused No.1. thereafter, accused No.1 started to give ill-treatment and harassment insisting the complainant to bring dowry amount of Rs.60,000/-.

6. Looking to these materials placed on record, the alleged offence started in the year 2007, but till 10.04.2017 no complaint was lodged by the complainant and it is only on 10.04.2017 i.e., after the lapse of 10 years from the date of alleged date of forcible sexual intercourse, she has come up with the said complaint. It is contended by the petitioner that he is innocent and not committed the alleged offence and only to harass the petitioner false complaint has been lodged. Learned counsel for the petitioner has submitted that other accused persons have already been granted bail. Hence, it is a fit case to exercise discretion in favour of the petitioner and to grant anticipatory bail.

7. Accordingly, petition is allowed. The respondent Police is directed to enlarge the petitioner on bail in the event of his arrest in Crime No.13/2017

registered for the above said offence, subject to the following conditions:

- i. Petitioner has to execute personal bond for a sum of Rs.1,00,000/- and furnish one surety for the like sum to the satisfaction of the arresting authority.
- ii. Petitioner shall not tamper with any of the prosecution witnesses directly or indirectly.
- iii. Petitioner has to make himself available before the IO for interrogation, as and when called for.
- iv. Petitioner has to appear before the concerned Court within 30 days from the date of this order and to execute the personal bond and the surety bond.

**Sd/-
JUDGE**

BSR