



**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH**  
**DATED THIS THE 1<sup>ST</sup> DAY OF FEBRUARY, 2025**  
**BEFORE**  
**THE HON'BLE MR. JUSTICE S.RACHAIAH**  
**CRIMINAL PETITION NO. 102724 OF 2024**

**BETWEEN:**

SMT JYOTI W/O KALLAYYA HIREMATH  
AGE: 26 YEARS, OCC: COOK  
R/O: KAMALAPUR, HUGAR ONI,  
TQ/DIST: DHARWAD.

...PETITIONER

(BY SRI. BASAVARAJ MATHAPATI, ADVOCATE)

**AND:**

THE STATE OF KARNATAKA  
THROUGH DHARWAD SUB-URBAN P.S,  
REP BY ADDL. S.P.P  
HIGH COURT OF KARNATAKA  
DHARWAD BENCH .

...RESPONDENT

(BY SMT. GIRIJA HIREMATH, HCGP)



THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C. SEEKING TO ALLOW THIS CRIMINAL PETITION AND ENLARGE THE PETITIONER/ACCUSED NO.1 ON BAIL WHO IS ARRESTED FOR THE OFFENCES PUNISHABLE U/S 302, 109 OF IPC, ON THE FILE OF PENDING BEFORE THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, DHARWAD IN SC NO. 48/2024 ARSING OUT OF IN CR.NO. 28/2024 OF DHARWAD SUB-URBAN PS.

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

CORAM: THE HON'BLE MR. JUSTICE S.RACHAIAH



**ORAL ORDER**

(PER: THE HON'BLE MR. JUSTICE S.RACHAIAH)

1. Heard Sri. Basavaraj Mathapati, learned counsel for petitioner and Smt. Girija Hiremath, learned High Court Government Pleader for respondent – State.
2. The petitioner, who is arraigned as accused No.1 in Crime No.28/2024 of the respondent – Police, is before this Court seeking regular bail, for the offences punishable under Section 302, 109 of the Indian Penal Code (for short "IPC"), pending on the file of the II Additional District and Sessions Judge at Dharwad in S.C No.48/2024.

**Brief facts of the case :**

3. The mother of the petitioner had lodged a complaint stating that, she had performed the marriage of the petitioner with Eshwar. The petitioner stayed along with him for one year and thereafter, she took divorce and married one Kallaiah Hiremath. The couple had twin children. One of the children became handicapped. The petitioner took divorce from her second husband and



started living with the complainant in her house along with the children.

4. During her stay in her house, the petitioner used to have an illicit relationship with Rahul s/o Mahesh Teradal. Despite instructions being given to stop all illicit relationships, the petitioner had continued the same. It is stated that, the accused No.2 insisted the petitioner to leave the children and accompany him and also assured her that he would take care of her needs.
5. Such being the fact, on 08.02.2024, around 4.00 p.m., the petitioner took her children to the loft to get them to feed. Around 05.00 p.m., the complainant had been to the temple. The complainant had received a phone call stating that Sahana, the child of the petitioner, fell down from the loft and sustained injuries. She was asked to go to the hospital. The complainant went to the hospital and saw that the child was dead. Therefore, she lodged a complaint. The jurisdictional police after conducting the investigation, submitted the charge sheet.
6. It is the submission of the learned counsel for the petitioner that the allegations made in the complaint are



baseless for the reason that though the children were born to the second husband of the petitioner, she took the children to her custody and came out of the house of her husband after obtaining the divorce. Had she had the intention to stay alone with her lust, she would not have brought the children along with her.

7. It is further submitted that as the child had fallen on the coconut grater and sustained injuries, it was taken to hospital for immediate treatment, however, due to unavoidable circumstances, the child died. The petitioner being the mother of the child, has not committed the murder of the child. However, the complainant being the mother of the petitioner, on wrong notion, lodged a complaint which is baseless and false.
8. It is further submitted that the petitioner being a woman, she has to take care of another child as a mother. She would abide the conditions imposed by this Court in the event of her release on bail. Having said thus, learned counsel for petitioner prays to allow the petition.
9. *Per contra*, learned High Court Government Pleader vehemently opposed the bail petition by stating that the



complainant is none other than the mother of the petitioner. She has narrated the character of the petitioner. The petitioner had left her two husbands and she was staying with the complainant and she was maintaining the illicit relationship with accused No.2 in spite of the resistance by the family members.

10. It is further submitted that as per the averments of the complaint, accused No.2 insisted the petitioner that she should leave her children and accompany him would indicate that she had intention to kill the child who is handicapped. Another child was present along with her, had witnessed the cruel act of the petitioner. Therefore, the petitioner deserves no sympathy much less she needs to be punished. Having said thus, learned High Court Government Pleader prays to dismiss the petition.
11. Having heard the learned counsel for the respective parties and also perused the averments of the charge sheet, it appears from the record that the petitioner was taking care of the child who is handicapped and also on that particular day, she had informed the complainant that in order to feed the children, she was taking them



to the loft and thereafter, on the same day, around 7.00 p.m., petitioner called the complainant that the handicapped child fell down on the coconut grater and sustained injuries and asked the complainant to go to the hospital.

12. On going through the facts and circumstances of the case, it is clear that the petitioner immediately shifted the child to the hospital for treatment would indicate that *prima facie* made out a case to grant bail.

13. Accordingly, I proceed to pass the following:-

ORDER

(i) The Criminal Petition is ***allowed***.

(ii) The petitioner is ordered to be enlarged on bail in Crime No.28/2024 of the respondent – Police Station, on executing a personal bond for a sum of Rs.1,00,000/- (Rupees One lakh only) with one surety for the likesum to the satisfaction of the Trial Court, subject to the following conditions:

a) The petitioner shall not visit the house of her estranged husband – Kallaiah Hiremath and also the complainant, till disposal of the case.



- b) The petitioner shall not threaten the prosecution witnesses and also not hamper the proceedings of the court.

In case, if the petitioner violates any of the bail conditions imposed by this Court, liberty is reserved to the prosecution to file necessary application for cancellation of bail.

**Sd/-  
(S.RACHAIAH)  
JUDGE**

Bss  
List No.: 19 Sl No.: 4