

KABI010012422024



**IN THE COURT OF, THE II.ADDL.DISTRICT & SESSIONS JUDGE,
AT BALLARI.**

PRESENT:

SRI.B.G.PRAMODA, B.A.L., LL.B.,
II.ADDL.DISTRICT & SESSIONS JUDGE, BALLARI

DATED THIS 1ST DAY OF JULY 2024

S.C.No.47/2024

COMPLAINANT: The State by Police Sub-Inspector, Women
Police Station, Ballari.

(By Learned Public Prosecutor)

//Vs//

ACCUSED NO.1: Talawar Basavaraja S/o Hamli Nagaraja
Age:21 years, Agriculturist R/o Y.Budihal
village, Ballari Taluka & District.

ACCUSED NO.2: Yarriswamy S/o Hamli Nagaraja Age:24
years, Labour R/o Y.Budihal village, Ballari
Taluka & District.

(By Sri.Lingesh.K.C, Advocate)

ORDERS

on the bail application filed by accused No.1 and 2

1. The accused No.1 and 2 have filed the present bail
application **U/s 439 of Cr.P.C** praying to enlarge them on bail in
the present case.

2. It is stated in the bail application that accused No.1 and 2 are innocents and they have not committed the alleged offences and they have either directly or indirectly involved in commission of the alleged offences and they have been falsely implicated in the case. It is further stated in the application that, the complainant police have filed false charge sheet against the accused by alleging the commission of offences punishable U/s 363 and 306 of IPC. The accused No.1 and 2 have never instigated to the daughter of the complainant. The investigation of the case is completed. Hence, the I.O not required the accused No.1 and 2 for any sort of further custodial interrogation. The accused NO.1 and 2 are owning substantial moveable and immovable properties. They are law abiding, peace loving citizens. They undertake that they will not tamper the prosecution witnesses. They are ready and willing to abide by any terms and conditions imposed by the Court for their enlargement on bail and they are ready to offer surety to the satisfaction of the Court for their enlargement on bail. Hence, the accused No.1 and 2 have prayed to grant bail to them.

4. The learned Public Prosecutor has filed objection to the bail application filed by the accused No.1 and 2 by opposing to grant of bail to the accused No.1 and 2 on the ground that, the offences alleged have been committed by the accused No.1 and 2 are grave in nature and against to the society. It is further stated in the objection that, the accused No.1 and 2 and other accused have forcibly abducted the deceased Parvathi and insisted her to marry Basavaraj and told her to go and die if she is not willing to marry Basavaraj. It is further stated in the objection that the accused No.1 has given abetment to deceased to commit suicide and other accused have supported accused No.1 in commission of the alleged offences. It is further stated in the objection that the alleged offences are punishable with imprisonment up to 10 years. Charge sheet is already filed against them. The materials produced along with the charge sheet prima-facie shows the commission of offence by the accused. If the accused are enlarged on bail, they will threaten the informant and other prosecution witnesses. They will abscond and they will commit similar offences in further. Hence, the learned PP has prayed to reject the bail application filed by the accused No.1 and 2.

5. Heard the arguments of Learned Public Prosecutor and Learned counsel for the accused No.1 and 2. Perused the bail application, objection and other materials on record.

6. Having done so, the following points will arise for my consideration:

1. Whether the bail application filed by the accused No.1 and 2 U/s 439 of Cr.P.C is deserves to be allowed?
2. What order?

7. My findings to the above points are, as under:

Point No.1:- **In the Affirmative.**

Point No.2:- As per final order, for the following:

REASONS

8. Point No:1: The accused No.1 and 2 has filed the present application praying to enlarge them on bail in the present case. It is to be noted here that, Crime No.30/2024 was registered by the complainant police against the accused No.1 to 3 on the basis of the information given by one S.Chennaveerappa by alleging that the accused No.1 and 2 and other persons have abducted her daughter S.Parvathi and they have insisted her to marry accused No.1 and they have told her to die if she is not willing to marry accused No.1 and by insisting her not to marry any other person. During the course of investigation of the case,

the complainant police have arrested the accused No.1 and 2 and later they have arrested accused No.3 to 5 and produced them before the learned Magistrate. The learned Magistrate has remanded the accused No.1 to 5 to judicial custody. The complainant police have conducted the investigation of the case in Crime No.30/2024 and the complainant police after completing the investigation of the case have filed charge sheet against the accused No.1 to 5 by alleging the commission of offences punishable U/s 363 & 306 R/w Section 34 of IPC. After filing of the charge sheet, the learned 4th Additional Civil Judge & JMFC, Ballari has took the cognizance for the said offences against accused No.1 to 5 and there after he has committed the case against accused No.1 to 5 by complying the provisions of Section 207 of Cr.P.C. After committal of the case, SC.No.47/2024 was came to be registered against accused No.1 to 5. The accused No.1 to 5 have appeared through their counsel. Now the accused No.1 and 2 have filed the present application praying to enlarge them on bail.

9. The learned counsel for the accused No.1 and 2 has argued that, there are no prima-facie materials in the charge

sheet to prove the active involvement of accused No.1 and 2 in commission of offence of the alleged offences and accused No.1 and 2 have not abetted or instigated the deceased to commit suicide. It is further argued that the accused No.1 and 2 are innocents and they have been falsely implicated in the case and false charge sheet has been filed against them. Hence, the learned counsel for the accused No.1 and 2 has prayed to enlarge the accused No.1 and 2 on bail.

10. I have perused the charge and the statements and the documents annexed with the charge sheet. It is alleged in the charge sheet that on 24.2.2024 the accused No.1 and 2 and his friends have abducted deceased Parvathi in the motorcycle, the daughter of the informant at about 9.15 PM and the same was came to the knowledge of informant from the Villagers. Further when the informant was searching for his daughter, on 25.2.2024, at about 2 PM the accused No.1 and 2 have left deceased Parvathi near the house of the informant. On enquiry, the deceased has told the informant that the accused No.1 and 2 and his friends have forcibly abducted her and they have insisted her to marry accused No.1 and not to marry any other person. It

is further alleged that, the deceased has told the informant that the accused have told her to go and die if she is not willing to marry the accused No.1. It is further alleged in the charge sheet that, on 27.2.2024 at about 4.30 PM Parvathi had attempted to commit suicide in bathroom of her house by pouring kerosene on her body and she was succumbed to the injuries sustained in the incident on 28.2.2024 at about 2.30 PM while she was under treatment in VIMS Hospital, Ballari. Hence, it is alleged in the charge sheet the accused No.1 and 2 have committed the offences punishable U/s 363 & 306 R/w Section 34 of IPC.

11. The offences alleged against the accused No.1 and 2 are not exclusively punishable with death or imprisonment for life. The I.O after conducting detail investigation of the case has filed the charge sheet against the accused. Since the charge sheet is already filed, custodial interrogation of the accused No.1 and 2 is not required for any further investigation of the case. Even though it is alleged in the complaint that on 25.2.2024, the informant came to know that the accused have abducted the deceased and threatened her to marry accused No.1 and told her to die if she is not willing to marry accused No.1, no complaint

was given by the informant on the said date or on the next date. Only when Parvathi has attempted to commit suicide on 27.2.2024, the complaint was lodged. From the complaint averments it is clear that the deceased was in the house of the informant for 2 days prior to the date of her death. The charge sheet materials go to show that, there is no immediate instigation or abetment by the accused to deceased to commit suicide on 27.2.2024. Whether the accused have abducted the deceased on the date, place and time as alleged in the charge sheet or not and whether the accused have abetted the deceased to commit suicide during the said period or not has to be adjudicated only after full fledged trial. Whether the words alleged have been spoken by the accused to the deceased as alleged in the information is sufficient to attract the commission of offence punishable U/s 306 of IPC or not has to be adjudicated only after full fledged trial.

12. The accused No.1 and 2 are ready and willing to abide by any terms and conditions imposed by the Court for their enlargement on bail. Further they are ready to offer surety to the satisfaction of the Court for their regular appearance before the

Court. The accused are the permanent residents of the address shown in the charge sheet. The Hon'ble High Court of Karnataka in the decision relied upon by the learned counsel for the accused mentioned in the memo has granted bail to the accused for the offence punishable U/s 306 of IPC in the facts and circumstances which are similar to that of the present case. The presence of the accused during the course of trial of the case can be secured by imposing suitable terms and conditions. The apprehension of the learned PP can be made good by imposing suitable terms and conditions. The accused are in judicial custody since 22.2.2024. The Hon'ble Supreme Court of India in the landmark judgment in State of Rajasthan versus Balchand @ Baliy reported in **AIR 1977 Page 2447** has laid down the legal doctrine that **"bail is a rule and jail is an exception"**. The said doctrine was laid down by the Hon'ble Supreme Court of India to uphold the right to life and personal liberty guaranteed under Article 21 of the Constitution of India. There should be exceptional reasons to keep the petitioner in judicial custody. No exceptional grounds are made out by the prosecution so as to deny the bail to the accused No.1 and 2. Hence, I am of the opinion that the accused No.1 and 2 can be enlarged on bail by

imposing suitable terms and conditions by allowing the application. Accordingly, I answer **Point No.1 in the Affirmative.**

13. Point No.2: For the foregoing reasons, I proceed to pass the following:

ORDER

The bail application filed by the accused No.1 and 2 U/Sec.439 of Cr.P.C., **is hereby allowed.**

The accused No.1 and 2 are enlarged on bail in this case on they furnishing their personal bonds for **Rs.1,00,000/-each** and on furnishing **one surety** for like-sum each with the following further conditions:

(1) The accused No.1 and 2 shall regularly appear before the Court on all hearing dates without fail.

(2) The accused No.1 and 2 shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or any police officer or any hamper with the evidence.

(3) The accused No.1 and 2 shall not leave India without prior permission of the Court.

(4) The accused No.1 and 2 shall not commit any offence of similar or any other offence in future.

(5) Violation of any of the aforesaid terms and conditions would entitle for cancellation of bail of the accused No.1 and 2.

(Dictated to the Judgment Writer directly on computer, typed by him, corrected by me and then pronounced in the open court on this **1st day of July 2024**)

(B.G.Pramoda)

II.Addl.District & Sessions Judge,
Ballari.

