

**IN THE COURT OF XLV ADDL. CITY CIVIL & SESSIONS
JUDGE, BENGALURU CITY (CCH-46)**

DATED THIS THE 22nd DAY OF APRIL, 2019

PRESENT

Sri. E. RAJEEVA GOWDA, L.L.M.,
XLV Addl. City Civil & Sessions Judge, Bengaluru.

CRL.MISC. No.3544/2019

BETWEEN

1. Mr. Gautam Malik, S/o V.K. Mullick,
Aged about 35 years,
R/at 3rd Floor in Radha Kanna, Apartment,
Flat No.T-7, 1st Main, Opp Star Market,
Vignan Nagar, Bengaluru.
 2. V.N. Mullick, Aged about 71 years,
R/at Flat No.204, Kapila Enclave,
Near Vastu Vihar, Phase 2, Chira Chass,
Bokaro, Jharkhand - 827013.
 3. Madhu Mullick, W/o V.K. Mullick,
Aged about 66 years,
R/at Flat No.204, Kapila Enclave,
Near Vastu Vihar, Phase 2, Chira Chass,
Bokaro, Jharkhand - 827013.
 4. Sonalika Malik, D/o V.K. Mullick,
Aged about 38 years,
R/at No.604, Tower No.6,
Valley View Estate, Gwalpahari,
Gurgaon, Haryana,
 5. JSS Rao, Aged about 61 years,
R/at No.94, Liberty Acres,
Sarjapur Road, Attibele,
Bengaluru.
- .. PETITIONERS
- (By Sri. Sri. Hassan S. Herimane, Advocate)

AND

The State of Karnataka
By H.A.L. Police Station,
Bengaluru.

.. RESPONDENT

(By the learned Public Prosecutor)

ORDER ON BAIL APPLICATION FILED U/S.438 OF Cr.P.C.

The advocate for the petitioners has filed bail application under Section 438 of Cr.P.C. to grant anticipatory bail in favour of the petitioners and direct the respondent police to release them on bail in the event of their arrest in Crime No.145/2019 of H.A.L. Police Station.

2. The brief facts of the bail application is as under:

On perusal of the bail application reveals that on the basis of the information of Smt. Neha Taneja, who is the wife of petitioner No.1, the respondent police had registered crime against the petitioners for an offences punishable under Section 498-A r/w Sec.34 of Indian Penal Code and Sec.3 and 4 of Dowry Prohibition Act. The petitioners are being accused persons are apprehending arrest at the hands of respondent police. Therefore, the petitioners have constrained to file this petition to grant bail.

3. The learned Public Prosecutor has received the notice of this petition and filed objection in detail reiterating the contents of the complaint and contended that this bail application is not maintainable in law or on facts of the case. Further he has reiterated the contents of complaint and also contended that if petitioners are granted bail then they again involve in causing mental and physical harassment to the complainant and also chance of destroying the evidence and hamper the witnesses. Accordingly, prayed for rejection of bail application.

4. Heard the argument on both sides. Perused the relevant materials on record.

5. The following points are arises for consideration of this Court:

1. *Whether the petitioners have made out sufficient grounds for granting anticipatory bail in their favour in Cr.No.145/2019 of H.A.L. police station as sought for?*

2. *What order?*

6. This court findings on the above points are as under:

Point No.1: In the Affirmative

Point No.2: As per final order

for the following:

REASONS

7. **Point No.1:** The documents produced by the petitioners disclose that a case was registered against the petitioners for the offences punishable under Section 498-A r/w Sec.34 of Indian Penal Code and Sec.3 and 4 of D.P.Act on the complaint of Smt. Neha Taneja, who is wife of petitioner No.1. Admittedly, the petitioner No.1 is husband, the petitioners No.2 and 3 are parents-in-law, the petitioner No.4 is sister-in-law of the complainant Smt. Neha Taneja.

8. The contention of petitioners is that they are innocent of the offence alleged against them and they have not committed any such offence. But, as submitted by the learned Prosecutor, the investigation is at the initial stage and it is yet to be completed. Hence, it is not proper to believe or consider that the petitioners are innocent of the alleged offences.

9. It is pertinent to note that even for the sake of argument, it is accepted that there is prima facie case against the petitioners for the offence punishable under Section 498-A r/w Sec.34 of Indian Penal Code and Sec.3 and 4 of D.P. Act, perhaps the said offences are not punishable with death or imprisonment for life. Though the offence under Sec.498-A of IPC and Sec.3 of D.P. Act are non-bailable, but exclusively triable by the Magistrate.

10. Further, as per the materials on record, it is clear that the petitioners No.1 and 5 are permanent residents of Bengaluru city. It is true that the petitioners No.2, 3 and 4 are residents of Jharkhand and Haryana respectively outside the jurisdiction of this court. Admittedly, the petitioner No.1 is husband, the petitioners No.2 and 3 are parents-in-law and the petitioner No.4 is sister-in-law of the complainant. Though the petitioners No.2 to 4 are residing outside the jurisdiction, the same will not take away the right of claiming bail. If suitable conditions are imposed on the petitioners making them to appear before the respondent police during the investigation and also before the learned Magistrate as and when directed, which equate

the apprehension of the prosecution. Moreover, the petitioners No.2 and 3 are aged persons and the petitioner No.3 and 4 are women. Hence, there is no reason to deny anticipatory bail to the petitioners.

11. The contentions of the learned Prosecutor put forth in the objection could be equated by imposing suitable conditions on the petitioners, while granting benefit of anticipatory bail. There is no any special ground made out by the prosecution to reject this bail application. Hence, in the circumstances, the petitioners have made out sufficient ground for granting anticipatory bail in their favour. In view of above reasons, I have answered point No.1 in the **Affirmative.**

12. **Point No.2:** In view of answer of this Court on point No.1, this court pass the following:

ORDER

The bail application filed by the petitioners under Section 438 of Cr.P.C. is hereby allowed.

The petitioners are ordered to be released on bail on their executing personal bond for Rs.50,000/- each with one solvent surety for like sum to the satisfaction of the concerned I.O. in the

event of their arrest in the case in Crime No.145/2019 of H.A.L. police station, subject to following conditions:

1. The petitioners shall make themselves available for interrogation by the I.O. as and when required till the final report is filed. Further, they shall assist the I.O. in further investigation of the case. They shall appear before the I.O. in the Police station once in two months preferably on 6th day of every alternative months between 10.00 a.m. and 5.00 p.m. commencing from 06.05.2019 till the completion of investigation.
2. The petitioners shall surrender before the concerned Police within 15 days from the date of this order without fail.
3. They 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/ her from disclosing such facts to the Court or to the concerned I.O.
4. They shall not hamper further investigation of the case and tamper with prosecution witnesses in any manner.
5. They shall not commit similar offence or any offence during the pendency of case, and
6. They shall appear before the concerned Magistrate Court as and when directed.

Notwithstanding this order of anticipatory bail, the I.O. is at liberty to take the petitioners into his custody with prior permission of the jurisdictional Magistrate, if the petitioners are

absolutely required for further custodial
interrogation and consequential recovery if any.

*(Dictated to the Stenographer, transcript corrected by me and then
pronounced in open Court on this **the 22nd day of April, 2019**)*

(E. RAJEEVA GOWDA)

XLV Addl. City Civil & Sessions Judge
Bengaluru