

**IN THE COURT OF ADDITIONAL DISTRICT AND SESSIONS
JUDGE, CHAMARAJANAGARA [SITTING AT KOLLEGALA].**

DATED THIS THE 08th DAY OF NOVEMBER, 2022

Present

Sri. LOKAPPA. N.R., B.Sc., LL.B.
Addl. District & Sessions Judge,
Chamarajanagara [Sitting at Kollegala].

Crl. Misc. No. 5289/2022

- Petitioners** : 1. Smt. Chennanjamma - [A2]
W/o Shivu,
Aged about 45 years,
R/o # 15/161, Ward No. 15,
Babu Jagajeevanaram Extension,
Kasaba Hobli,
Chamarajanagar Town.
2. Smt. Anjali - [A3]
W/o Ramesh,
Aged about 30 years,
R/o Harave village,
Chamarajanagar Taluk & District.
3. Rajesh - [A4]
S/o Late Siddanna,
Aged about 38 years,
R/o Ward No. 15,
Babu Jagajeevanaram Extension,
Kasaba Hobli,
Chamarajanagar Town.

By Sri. A.R. Ramesh, Advocate]
V/s.

Respondent : State by Women Police Station,
Chamarajanagar.

[Rep. by Public Prosecutor]

ORDER

This is an application filed by the petitioners U/s. 438 Cr.P.C. 1973, praying for grant of anticipatory bail.

2. Brief facts of the case in a nutshell as per the as per the FIR/complaint registered by the respondent police is that, “ಪಿರ್ಯಾದಿಯ ಮದುವೆ ದಿನಾಂಕ: 25-11-2020 ರ ಗುರುಹಿರಿಯರ ಸಮ್ಮುಖದಲ್ಲಿ ಸರಗೂರು ಗ್ರಾಮದ ಸೋಮೇಶ್ವರ ದೇವಸ್ಥಾನದಲ್ಲಿ ತಮ್ಮ ಸಂಪ್ರದಾಯದಂತೆ ನಡೆದಿದ್ದು ವರದಕ್ಷಿಣೆಯಾಗಿ ರೂ. 50,000/- ಗಳನ್ನು, 15 ಗ್ರಾಂ ಚಿನ್ನದ ಒಡವೆಯನ್ನು ಕೊಟ್ಟು ಮದುವೆ ಮಾಡಿದರು. ಮದುವೆಯಾದ ಒಂದು ವಾರದ ನಂತರ ತನ್ನ ಗಂಡ ನನಗೆ ನಿನಗಿಂತ ಮುಂಚೆ ಸುಮಾ ಎಂಬುವಳ ಜೊತೆ ಅನೈತಿಕ ಸಂಬಂಧ ಇದೆ ಎಂದು ಹೇಳಿ ಅವರ ಮೊಬೈಲ್ ನಲ್ಲಿ ಆಬರಿಬ್ಬರ ಅಶ್ಲೀಲ ಭಾವಚಿತ್ರಗಳನ್ನು ತೋರಿಸಿದರು. ನಂತರ ನೀನು ಅಧ್ವಾರಿಯಾಗಿ ವರದಕ್ಷಿಣೆ ವರೋಪಚಾರ ನೀಡಿ ಕೂಟು, ಬೂಟು ಹಾಕಿ ಭತ್ತದಲ್ಲಿ ಮದುವೆ ಮಾಡಿಕೊಂಡು ಬಂದವಳಲ್ಲ. ಸುಮ ನನಗೆ ನಾನು ಕೇಳಿದಾಗಲೆಲ್ಲಾ ಹಣ ದೈಹಿಕ ಸುಖ ನೀಡುತ್ತಾಳೆ. ನಿನ್ನ ಬಳಿ ಏನು ಇಲ್ಲ ಮನೆಯಿಂದ ಹೊರಗೆ ಹೋಗು ಎಂದು

ಅವಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ಬೈಯುವುದು ಹೊಡೆಯುವುದು ಮಾಡುತ್ತಿದ್ದರು. ನಂತರ ಅರ್ಜಿದಾರರುಗಳು ನೀನು ಬೇಕಾದರೆ ಇರು ಇಲ್ಲದಿದ್ದರೆ ಅವನು ಹೇಳಿದಂತೆ ಸಹಕರಿಸಿ ಅವನ ಮಾತು ಕೇಳಿಕೊಂಡು ಬಿದ್ದಿರು. ಇಲ್ಲದಿದ್ದರೆ ನಿನ್ನ ಮನೆಯಿಂದ ನೀನು ತಂದಿರುವ ರೂ. 50,000/- ಗಳನ್ನು ಕೊಡುತ್ತೇವೆ ಹೋಗು ನಿನಿಗೆ ಅದಕ್ಕಿಂತ ದೊಡ್ಡ ಪರಿಹಾರವೇನು ಸಿಗುವುದಿಲ್ಲವೆಂದು ಕೆಟ್ಟ ಮಾತುಗಳಿಂದ ಅವನ ಪರ ನಿಂತು ತನಗೆ ಹಿಂಸೆ ನೀಡಿದರು. ಇದರ ನಡುವೆ ತಾನು 4 ತಿಂಗಳ ಗರ್ಭಿಣಿ ಎನ್ನುವುದನ್ನು ನೋಡದೆ ತನ್ನ ಗಂಡ ತನ್ನ ಗರ್ಭದಲ್ಲಿರುವ ಮಗುವನ್ನು ಈ ಮಗುವಿದ್ದರೆ ತಾನೆ ನೀನು ಕೋರ್ಟ್ ಕಛೇರಿಗೆ ಹೋಗುವುದು ಎಂದು ಕತ್ತು ಹಿಸುಕುವುದು, ಹೊಟ್ಟೆಗೆ ಒಡೆಯುವುದು ಅವರದೇ ಒಂದು ಆಟೋದಲ್ಲಿ ದೂರ ಕರೆದುಕೊಂಡು ಹೋಗಿ ಹೊರಗೆ ತನ್ನನ್ನು ನೂಕಿ ಸಾಯಿಸಲು ಕೂಡ ಪ್ರಯತ್ನಿಸಿದ್ದಾರೆ. ಹಲವಾರು ಬಾರಿ ಗರ್ಭಪಾತ ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿರುತ್ತಾರೆ. ನೀನು ಜೀವಂತವಾಗಿ ಬದುಕಲು ಇಚ್ಛೆ ಇದ್ದರೆ ವಿಚ್ಛೇದನ ಕೊಡು ನಾನು ಸುಮಾಳ ಜೊತೆ ಚೆನ್ನಾಗಿರುತ್ತೇನೆ ಎಂದು ದೈಹಿಕವಾಗಿ ಹಲ್ಲಿ ಮಾಡಿ 7 ತಿಂಗಳ ಗರ್ಭಿಣಿಯನ್ನು ಕೂಟ ನಡೆಸಿ ಪಂಚಾಯಿತಿದಾಗ ಸಮೂಹದಲ್ಲಿ ಇನ್ನು ಮುಂದೆ ತಾನು ತೊಂದರೆ ಕೊಡುವುದಿಲ್ಲವೆಂದು ಉಪ್ಪು ಮುಟ್ಟಿ ಆಣೆ ಪ್ರಮಾಣ ಮಾಡಿ ಮನೆಗೆ ಕರೆದುಕೊಂಡು ಹೋದರು. ಮತ್ತೆ ತನ್ನ ಮೇಲೆ ಜಗಳ ತೆಗೆದು ನಾನು ಜನರ ಮುಂದೆ ಈಗೇ ಹೇಳುವುದು ನೀನು ನನಗೆ ಇಷ್ಟವಿಲ್ಲ ಎಂದು ಜಗಳ ಮಾಡಿದರು. ನಂತರ ನನಗೆ ಗಂಡು ಮಗುವಿನ ಜನನವಾಗಿ 1 ವರ್ಷವಾದರು

ತನ್ನನ್ನು ಮತ್ತು ಮಗುವನ್ನು ನೋಡಲು ಬಂದಿರುವುದಿಲ್ಲ ಮತ್ತು ತನಗೂ ಮತ್ತು ಮಗುವಿನ ಖರ್ಚು ವೆಚ್ಚಕ್ಕೂ ಏನೂ ಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಮೇಲ್ಕಂಡ ಅರ್ಜಿದಾರರ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಬೇಕೆಂದು ಕೊಟ್ಟ ದೂರಿನ ಮೇರೆಗೆ ಈ ಪ್ರ.ವ.ವರದಿ". Thereby, it is alleged that the petitioners are guilty of having committed an offence punishable U/s's. 498A, 323, 504, 506, 114 R/w Section 34 of IPC and Section 3 & 4 of Dowry Prohibition Act, 1961 and Section 75 of Juvenile Justice [Care and Protection of Children] Act, 2015.

- 2[a]. The petitioners are apprehending their arrest at any time by the respondent police. They submit that they are innocent of the alleged offence and that they would abide by all the conditions that may be imposed on them. They have prayed for their release on anticipatory bail in the event of their arrest by respondent police.
3. Learned Public Prosecutor has resisted the bail petition by filing statement of objections and has prayed for dismissal of the petition.
4. I have heard the arguments and perused the materials available on record.

5. Now, the following points that arise for my consideration and determination.

1. *Whether the petitioners have made out a prima-facie case for grant of anticipatory bail, as prayed for?*

2. *What Order?*

6. My findings on the above said points are as under:

Point No.1: In the affirmative.

Point No.2: As per final order for following:

REASONS

7. **Point No.1:** The petitioners have furnished certified copies of FIR, complaint etc.,

8. Perusal of these documents clearly shows that, on the basis of a complaint lodged by Smt. Preethi W/o Ningaraju, the respondent police have registered a case in Cr. No. 54/2022 dated: 12-10-2022 against the petitioners and 2 others, wherein the petitioners are arrayed as A2 to 4 respectively.

9. On a careful perusal of the complaint allegations, it is evident that the complainant has not mentioned the exact motive/mens-rea behind the alleged incident or the overt act of the petitioners/A2 to 4, but has merely made bald allegations against the

petitioners/A2 to 4. Moreover, none of the above alleged offence are either punishable with death or imprisonment for life. However, the case is a non-bailable one and matter in issue involved in matrimonial relationship.

10. One of the alleged offence involved in this case is connected to the matrimonial dispute between the complainant and one Ningaraju who are the wife and husband respectively. In this regard, the citation in ***Arnesh vs. State of Bihar reported in (2014) 8 SCC 273***, while passing the bail order of accused wherein it has been held that: *“lenient view has to be taken while consider remand application at the stage of post arrest”*. On plain reading of the above said decision quoted supra, it is aptly applicable to the case on hand.
11. The petitioners/A2 to 4 are shown to be permanent resident of # 15/161, Ward No. 15, Babu Jagajeevanaram Extension, Kasaba Hobli, Chamarajanagar Town and Harave village, Chamarajanagar Taluk respectively, at the address mentioned in the cause title and they have also submitted that they are ready and willing to furnish surety for their appearance before the Court. They

have undertaken that they will not tamper or hamper with the prosecution witnesses and evidence. There is no possibility of the petitioners/A2 to 4 to flee from justice. Hence, the petitioners/A2 to 4 have made out a prima-facie case for grant of anticipatory bail.

12. Further, it is noteworthy that relief U/s. 438 Cr.P.C. is only in the form of interim relief to remain in force for a limited period so as to provide breathing time to the offender to surrender before the jurisdictional police and to appear before the jurisdictional Court.
13. Without expressing any opinion on merits of the case and without prejudice to the foregoing paragraphs, this Court is of the opinion that there would be no impediment whatsoever, if the petitioners/A2 to 4 have granted anticipatory bail upon imposing strict conditions. Accordingly, above point No.1 is answered in the affirmative.
14. **Point No.2:** For the above said discussion, I proceed to pass the following:

ORDER

The Crl. Misc. Petition filed by the petitioners/A2 to 4 U/s. 438 Cr.P.C is allowed.

The respondent police are directed to release the petitioners/A2 to 4 on bail in the event of their

arrest, in connection with the Cr. No. 54/2022 filed by the respondent police subject to the following conditions:

1. *The petitioners/A2 to 4 shall appear before the Investigating Officer within 25 days from the date of this order and in that event, the Investigating Officer shall release them on bail by obtaining a personal bond for a sum of Rs. 50,000/- each with one local surety for the like sum. [Each petitioner shall furnish a separate surety].*
2. *The petitioners shall co-operate with the Investigating Officer during investigation.*
3. *The petitioners shall not directly or indirectly make any inducement, threat, promise or influence the witnesses or any person acquainted with the facts of the instant case so as to dissuade them from disclosing such facts either to the Court or to the Investigating Officer and shall not tamper the evidence.*
4. *The petitioners shall produce an authenticated proof of their residential address mentioned in the cause title of this petition before the I.O. while executing the bond.*

[Dictated to the Stenographer, computerized by her, revised and corrected and then pronounced by me in the open Court on this the 08th day of November, 2022].

[Lokappa. N.R.]

Addl. District & Sessions Judge,
Chamarajanagara, [Sitting at Kollegala].

