

*IN THE COURT OF THE I ADDL. SESSIONS AND  
SPECIAL JUDGE, AT CHIKKAMAGALURU.*

*Present: Sri. **K.L. Ashok**, B.Com.,LL.B,  
I Addl. Sessions & Special Judge,  
Chikkamagaluru.*

*Dated this the 15<sup>th</sup> Day of June 2021*

**Sessions Case No.92/2021**

*Complainant*

*State by Sakarayapatna police*

*(Represented by the Public Prosecutor, Chikkamagaluru)*

*Vs*

*Accused*

- 1. Rangaswamy S/o Lakka Shetty,  
Aged about 49 years,  
Businessman, R/o S.Bidare  
Village, Kadur Taluk.*
- 2. Leelavathi W/o Lakshmana Shetty,  
Aged about 38 years, Housewife,  
R/o S.Bidare Village, Kadur Taluk.*

*(Accused No. 1 by Sri H.C.Nataraja, Advocate and accused  
No. 2 by Sri.H.T.Vinayaka, Advocate)*

**ORDERS ON THE BAIL PETITION FILED BY THE  
ACCUSED No.1 AND 2 U/Sec.439 OF Cr.P.C.**

*State by Sakarayapatna police have filed this case against the accused alleging commission of the offences punishable under Section 506, 306 R/w Sec.34 of I.P.C.*

2. *The brief facts of the Prosecution case are that the complainant and accused No.2 are the father and mother of deceased Poornima. The accused No. 2 had illicit relationship with accused No. 1. On 2.3.2021 Poornima came to know about the illicit relationship of accused No. 1 and 2 and accused No. 1 and 2 threatened her not to inform the said fact to anybody. But Poornima informed the said fact to the complainant. In this regard often there were galatas between the complainant and accused No. 2. The accused No. 2 used to assault Poornima and abused her stating that go and die. The accused No. 1 also threatened her stating that he would see how she should go to the school. Being disgusted on*

*7.3.2021 in between 9.30 a.m., and 10.30 a.m., Poornima committed suicide in her house by hanging with the help of wale. Immediately the complainant lodged complaint to Sakarayapatna police station and they in turn registered a case against the accused in Cr.No.23/2021 and took up investigation. The Investigating Officer visited the spot and prepared mahazar and recorded the statements of witnesses and after completing investigation, filed charge sheet against the accused persons. The accused persons were arrested produced before the Court and they were remanded to judicial custody.*

*3. The accused No.1 has moved the bail petition on the ground that he is innocent of the alleged offences and has not committed any offence. That the offences alleged are not punishable with death or life imprisonment. That investigation has already been completed and he is not required for further investigation. That he hails from respectable family having deep*

*roots in the society. That he is the only bread earner of his family and his family members are depending on him. That during Covid-19 pandemic situation, some jail inmates were suffered due to Covid-19 and hence the situation is not safety to the accused and the Hon'ble Supreme Court directed to liberal approach while granting bail in non-bailable offence. That he would abide by the conditions that may be imposed by the court. Accordingly has sought the benefit of bail.*

4. *The accused No.2 has moved the bail petition on the ground that she is innocent of the alleged offences and has not committed any offence. That the offences alleged are not punishable with death or life imprisonment. That investigation has already been completed and she is not required for further investigation. That she hails from respectable family having deep roots in the society. That the material collected is not enough to come to the conclusion that the accused are responsible for the*

*alleged incident. That during Covid-19 pandemic situation, some jail inmates were suffered due to Covid-19 and hence the situation is not safety to the accused and the Hon'ble Supreme Court directed to liberal approach while granting bail in non-bailable offence. That she would abide by the conditions that may be imposed by the court. Accordingly has sought the benefit of bail.*

5. *The learned Public Prosecutor has filed objections stating that there is a prima-facie case against the accused persons. That the accused have committed heinous offence. That they have failed to make out sufficient grounds for grant of bail. That there are possibilities of the accused tampering the case of the prosecution. That the accused may abscond if they are enlarged on bail. Accordingly have sought rejection of the bail petition.*

6. *For disposal of this petition the following points arise for consideration.*

1. *Whether the accused No.1 and 2 are entitled for the benefit of bail under section 439 of Cr.P.C.?*

2. *What order?*

7. *Having heard arguments on both side through V.C., and on perusal of the material on record, my 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**

8. **Point No.1:-** *In this case there are no eye witnesses to the incident. No one has seen the alleged illicit relationship between the accused No. 1 and 2 nor has any one seen either of the accused threatening the victim. Further the complainant does not speak anything regarding such illicit relationship or the instigation made by accused No.2. If the victim had really informed her father about the alleged illicit relationship and the instigation by her mother, certainly the complainant*

*would have mentioned the same in his complaint and would have asked the police to take action against both the accused. The conspicuous absence of the same draws doubts about the prosecution theory.*

9. *It is pertinent to note that the statement of all the relevant witnesses, that is the inquest witnesses and circumstantial witnesses C.Ws. 12 to 17 speak that they came to know about the alleged illicit relationship and instigation from the complainant. They do not have any first hand knowledge about the incident. Even the grandmother of the victim is in no better position. There arises a question that if the complainant really knew about something why he did not act upon the same. If accused No. 2 was instigating her daughter to commit suicide and if the victim had informed the same to her father, certainly the complainant would not have kept quite and would have picked up a quarrel with his wife. He also would have taken safeguards to shield his daughter from the harassment. Because this is not an information on which he would keep his silence. Therefore unless and until the evidence*

*is recorded, it is not possible to establish the exact role played by the accused. Such being the case, it is not possible to deny the benefit of bail to the accused.*

10. *The learned Public Prosecutor has vehemently argued that there is an extra judicial confession. The relevancy of extra judicial confession can be established only on recording the evidence and not at this stage. Therefore bail cannot be denied even based upon the same.*

11. *During the time of pandemic, it is also not proper to fill up the prison indiscriminately. Further already there has been the instance of Covid infection in Chikkamagaluru prison. Such being the case, it is also justified to keep the prison sparsely populated as far as possible.*

12. *The offences alleged are not punishable with death penalty or life imprisonment. The objections raised by the Prosecution can be met by imposing stringent conditions on the accused. The accused being the permanent residents of the address shown in the cause title, the*

*possibilities of absconding is remote. The charge sheet has been filed and the investigation is concluded. There is no necessity of custodial interrogation. Continuing the accused in judicial custody may amount to pre-trial conviction which is not desirable. At the same time, bail can not be rejected by way of punishment. Therefore there are sufficient and reasonable grounds to extend the benefit of bail to the accused persons. Accordingly, point No.1 is answered in the **Affirmative**.*

13. **Point No.2:-** *In the light of above discussions, I proceed to pass the following:*

### **ORDER**

*The bail application filed by the accused No.1 Rangaswamy and accused No. 2 Leelavathi under section 439 of Cr.P.C. is allowed.*

*The accused No.1 and 2 are enlarged on bail on execution of personal bond for Rs.50,000/- (fifty thousand) each along with two separate sureties for the like sum subject to the following conditions.*

1. *The accused shall shall not involve in any kind of criminal activities in future.*
2. *The accused shall not tamper with the prosecution evidence or witnesses in any manner.*
3. *The accused shall appear before the Court on all dates of hearing and shall not delay the trial.*
4. *The sureties, who stand for one accused shall not stand as sureties for another accused in this case.*
5. *The accused No.1 & 2 shall not leave the territorial jurisdiction of this court without prior permission.*

*[Dictated to the Judgment Writer, transcribed by him, transcript corrected by me and then pronounced in the open court on this the 15<sup>th</sup> day of June 2021].*

*Sd/-  
(K.L. Ashok)  
I Addl. Sessions Judge  
Chikkamagaluru.*