

KABR200007292022



Presented on : 29-10-2022

Registered on : 29-10-2022

Decided on : 14-11-2022

**IN THE COURT OF THE III ADDL. DISTRICT & SESSIONS
JUDGE, BENGALURU RURAL DISTRICT,
SIT AT ANEKAL.**

: PRESENT:

**Sri. KARABARI RAVINDRA, B.A. LL.B. (SPL)
III Addl. District & Sessions Judge,
Bengaluru Rural District, sit at Anekal.**

DATED THIS THE 14TH DAY OF NOVEMBER 2022

Crl. Misc. No.5409/2022

BETWEEN :

1. Sri. Babu, S/o Chandrappa,
Aged about 50 years, R/at
Thindlu Village, Sarjapura
Village, Anekal Taluk, Bangalore
Urban District.

: Petitioner /
Accused

(Represented by Sri. L.G.A.K.,
Advocate)

AND

State of Karnataka represented by
Sarjapura Police Station.

: Respondent.

(Represented by the Learned
Public Prosecutor)

: O R D E R S :

The Petitioner has filed the bail application under section 438 of Cr.P.C. with an request to grant the Anticipatory Bail in Cr.No.267/2022 of Sarjapura Police Station for the offences punishable under sections 498A, 504, 506 of Indian Penal Code.

2. The brief fact of the bail application is that, the complainant has filed the complaint with allegation that the marriage of Petitioner was taken place with complainant about 20 years back in the presence of the elders and they have got one male and one female child. The Petitioner is agriculturist and he was causing torture from last one year mentally and physically as to bring the money from her parents house and there was panchayath on 20.06.2022 at that time Petitioner was assaulted her and threatened to kill her. So on the basis of complaint registered the Cr.No.267/2022 for the

offence under section 498A, 504, 506 of Indian Penal Code. There is apprehension of arrest and Petitioner has applied for Anticipatory Bail on the following grounds.

3. Petitioner is innocent and not committed any offence and falsely involved him. He is ready to abide any conditions imposed by this court. The offence under section 498A of Indian Penal Code is not punishable with death or life imprisonment and requested to allow the bail application.

4. The Learned Public Prosecutor has filed the objection on the ground that on the basis of complaint registered the Cr.No.267/2022 of Sarjapura Police Station for the offences punishable under sections 498A, 504, 506 of Indian Penal Code. Further contended that as per averments made in the compliant. Further contended that in case of released on bail there is chances of tampering prosecution witnesses and causing hindrance in the investigation and absconding the jurisdiction and

requested for rejection.

5. Heard, perused the records, the following Points for my consideration as under:

1. Whether the petitioner has got prima-facie case to grant the bail under section 438 of Cr.P.C. and petition is fit to be allowed.?

2. What order?

6. My findings on the above Points are as under:

Point No.1:	In Affirmative.
Point No.2:	As per final Order

7. **Reasons on Point No.1** :- I have perused averments made in the bail application, its objection and police papers. The Sarjapura Police Station has registered the Cr.No.267/2022 for the offences punishable under sections 498A, 504, 506 of Indian Penal Code. I have perused the averments made in the complaint. As per allegation made in the complaint their marriage was taken place about 20 years back and they have got one male and one female child and Petitioner is causing

torture for last one year and now she is residing in her parents house. On 20.06.2022 there was panchayath and in that panchayath Petitioner assaulted the complainant and threatened to her life. This is the some and substance of the allegation made in the complaint. So the allegation made in the complaint is that complainant was residing in her parents house for so many days. Now the allegation made that at the time of panchayath the Petitioner was picked up quarrel and assaulted her. So I am of opinion that all the offence are bailable except 498A of Indian Penal Code. The offence under section 498A of Indian Penal Code is not punishable with death or life imprisonment and triable by judicial Magistrate first class. This court relied upon **Criminal Special Petitioner Crl. Appeal No.7281-7282/2017 Smt. Sushila Aggarwal and others V/s State (NCT of Delhi) and others.** The Hon'ble Apex Court held that bail is a rule, jail is exception. In view of principle laid down in above said judgment I am of opinion that the offence under section 498A of Indian Penal Code is not

punishable with death or life imprisonment and triable by judicial Magistrate first class. So the Petitioner has made out prima facie case to grant bail under section 438 of Cr.P.C.. In view of above said reasons this court held **point no.1 in the Affirmative.**

8. **Reasons on Point No.2** :- In view of reasons on in point no.1 I proceed to pass the following Order : -

: O R D E R :

The bail petition under section 438 of Cr.P.C filed by the petitioner is hereby allowed and in the event of his arrest in Cr.No.267/2022 of Sarjapura Police Station for the offences punishable under sections 498A, 504, 506 of Indian Penal Code, he shall released on bail on execution of personal bond of Rs.50,000/- with like sum of one surety with the following condition.

1. He shall not tamper

prosecution witnesses.

2. He shall appear before the investigation officer as and when required.

3. He shall mark the attendance before the concerned police station on every fortnight on Saturday between 10-00 A.M. to 4-00 P.M.

4. The Petitioner and surety shall furnish the recent passport size photo with mobile number.

The above said conditions are in enforcement for a period of 90 days or till filing of charge sheet whichever is earlier.

(Dictated to the Stenographer, typed by her, corrected by me and then pronounced in the Open Court on **14th day of November 2022**).

(KARABARI RAVINDRA)
III Addl. District & Sessions Judge,
Bengaluru Rural District,
Sit at Anekal.

14.11.2022.

Orders Pronounced in the Open Court. The Operative Portion of the said Orders is as follows : -

: O R D E R :

The bail petition under section 438 of Cr.P.C filed by the petitioner is hereby allowed and in the event of his arrest in Cr.No.267/2022 of Sarjapura Police Station for the offences punishable under sections 498A, 504, 506 of Indian Penal Code, he shall released on bail on execution of personal bond of Rs.50,000/- with like sum of one surety with the following condition.

1. He shall not tamper prosecution witnesses.

2. He shall appear before the investigation officer as and when required.

3. He shall mark the attendance before the concerned police station on every fortnight on Saturday between 10-00 A.M. to 4-00 P.M.

4. The Petitioner and surety shall furnish the recent passport size photo with mobile number.

The above said conditions are in enforcement for a period of 90 days or till filing of charge sheet whichever is earlier.

(Vide my separate detailed Orders dated 14.11.2022).

(Typed as per my dictation)

(KARABARI RAVINDRA)
III Addl. District & Sessions Judge,
Bengaluru Rural District,
Sit at Anekal.

