

IN THE COURT OF THE II ADDITIONAL SESSIONS JUDGE
AT KOLAR

Dated this the 6th day of March 2019

PRESENT

Smt B.S.REKHA, B.A.(Law), LLM,
II Addl.District and Sessions Judge, Kolar.

Spl.S.C.No.1/2019

Complainant : State of Karnataka,
Represented by PSI,
Srinivaspur police station.

(Rep. By Spl.**Public Prosecutor**.)

V/S

Accused : A-5. Sumithrammka, 45 years,
w/o Ananthappa,.
R/at.Mogilahalli village,
Srinivaspur Taluk, Kolar District.

(By Sri. CK., Advocate)

ORDERS ON BAIL PETITION

This is a bail petition filed by the accused No.5 under Sec.439 of Cr.P.C., praying to grant bail for the offences punishable under Sec.143, 149, 302, 506 of IPC and Sec.3(2)(5) of SC/ST(POA) Act on the grounds that, she is innocent of alleged offences. She never abused the deceased or to any of the witnesses by touching their caste and never threaten them. In the charge sheet it could not constitute the above said offences. The alleged offences are not

punishable with death or imprisonment for life. She is permanent resident of address given in the cause title, having deep roots in the society and having friends and relatives in the locality. She is ready to abide by the terms and conditions that may be imposed by this Court and ready to offer surety. She will not threat or tamper the prosecution witnesses in any manner and will co-operate for trial. Hence he prays for grant of bail on any conditions.

2. In turn the learned Public Prosecutor has filed an objection and opposed the claim of the accused No.5 by denying the averments of the petition in toto. In addition it is contended that the accused has committed offence punishable under Sec.3(2)(5) of SC/ST(POA) Act, which is non bailable in nature. If he is released on bail, there is a possibility of his flee from justice and tamper the prosecution witnesses and hamper the trial. Hence pray for rejection of the bail petition.

3. Heard the arguments on both sides. Perused the bail petition and objection filed to it and I have gone through the material placed on record.

4. The point that arises for my consideration is as follows:

“Whether it is just and proper to exercise discretion to grant bail to the accused No.5 U/Sec. 439 of Cr.P.C.?”

5. My answer on the above point is in the affirmative, for the following:

REASONS

6. The case of the prosecution is that complainant belongs to scheduled caste and his son Srinivasa was in love with accused No.3. In that regard accused are giving torture to complainant and his family and the complainant advised his son. Even though accused No.3 used to telephone son of complainant and turned him. About 15 days back accused persons went near the house of complainant and abused them by touching the caste and threatened to kill them. That on 29.9.2018 at about 5 p.m., when his son is in the house, he received a mobile call and went out from the house. Whole night he did not return to the house. In the morning at 4 a.m., complainant went in search of his son in the houses of his relatives and found that his son was killed and hanged to the tree at the land of Nanjareddy of his village.

7. The contention of the accused No.5 is that already accused No.1 to 4 are enlarged on bail and she requested the court to consider her bail application on parity ground. Further it is contended that she never abetted the deceased to commit suicide

and the allegations are vague. She never abused by touching the caste and she request the court to grant bail.

8. In this case initially the case was filed u/s 302 of IPC, but the charge sheet is filed u/s 306 IPC. In this case the allegation against these accused is that they have instigated one Srinath to commit suicide as he was loving the daughter of 2nd accused Akhila and by knowing this, these accused have abused him. However in this case the instigation is a matter to be proved at the time of trial. At present the materials available on record are that the other accused already on bail and this accused is surrendered and she is in judicial custody, she is a woman, hence by looking to all aspects, it is just and necessary to grant bail on the ground of parity. Hence I answer the above point in the affirmative and proceed to pass the following:

ORDER

The bail petition filed by accused No.5 Sumithramma under Sec.439 Cr.P.C., is hereby allowed. She is enlarged on bail on her executing personal bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with a surety for the like sum to the satisfaction of the court subject to the following conditions:

(a) the accused No.5 shall not intimidate or tamper with the prosecution witnesses in any manner;

(b) she shall appear before the Court on all dates of hearing without fail.

(Dictated to the Judgment Writer on-line, computerized by her, transcript revised, corrected by me and then pronounced in the open Court on this the **6th day of March 2019**)

(B.S.REKHA)

II Addl. Sessions Judge, Kolar.

sk/*