

**BEFORE THE 5TH ADDL-DISTRICT & SESSIONS
COURT AT HASSAN**

PRESENT:- Santhosh Gajanan Bhat

B.A.L.,LLB

**5th Additional District and
Sessions Judge, Hassan.**

Dated 29th Day of October 2018

Crl.Misc.No.1243/2018

Petitioners:

1.	Basavaraju S/o Halagappa, aged about 31 years, R/at Chandapura, Anekal, Anekal Taluk, Bangalore Rural.
2.	Yogamma W/o Halagappa, aged about 52 years.
3.	Halagappa S/o late Basappa, aged about 60 years, Both are R/at Hoovinahalli village, Halekote Hobli, H.N.Pura Taluk, Hassan District.

(By Sri.C.N.N, Advocate)

V/s

Respondent:-

State by:

Holenarasipura Town Police

(By Public Prosecutor)

ORDER

This bail petition has been filed by the Petitioners under Section.438 of Cr.P.C. The Petitioners have been arrayed as accused no.1, 4 and 5 in Cr.No.175/18 filed by the Respondent Police for the offences punishable under Section.504, 323, 506, 498-(a) of Indian Penal Code and 3 and 4 of Dowry Prohibition Act on the file of the Civil Judge and JMFC at Holenarasipura.

2. It is the case of the prosecution that, the complainant was married with the Petitioner no.1 on 17.5.2017 and after the marriage she had started her matrimonial life with the Petitioner no.1. She has also contended that at the time of marriage a sum of Rs.1,00,000/- and about 100 grams of gold was given in as dowry, however the Petitioner along with other accused persons were harassing her to bring in additional dowry. On 28.1.2018 when the complainant was alone in the house about 5.30 p.m., the accused persons had come near her house and had pulled her hair and had attempted to stab her with a knife and accordingly a case came to be registered. Subsequently on the completion of investigation the charge sheet came to be filed.

3. Being aggrieved by the same and apprehending arrest and ill treatment at the hands of the Respondent

police, the petitioners who have been arrayed as accused no.1, 4 and 5 had filed the said bail application. They have contended that no such incident had taken place and a false case was foisted against them. Further the Petitioner no.2 and 3 who have been arrayed as accused no.4 and 5 were suffering from various ailments and they were also ready and willing to abide by any of the conditions that may be imposed by this court. As such they have sought for enlarging them on bail.

4. Per contra, the learned Public Prosecutor has put in his appearance and has filed detailed statement of objections resisting the anticipatory bail petition. He has contended that though the investigation is completed, the same is not a ground for enlarging on bail and per contra the same fortifies the case of the prosecution. hence he has sought for rejecting the bail application.

5. Heard the learned counsel for Petitioner and learned Public Prosecutor.

6. The following points that would arise for my consideration:-

1. Whether the Petitioners have made out grounds for enlarging them on anticipatory bail?

2. What order?

7. For the reasons to be stated hereinafter, I answer the above points as follows:

Point No.1:- In the Affirmative.

Point No.2 :- As per final order,
for the following:-

REASONS

8. Point No.1:-

It is the case of the prosecution that, the complainant was married with the Petitioner no.1 on 17.5.2017 and after the marriage she had started her matrimonial life with the Petitioner no.1. She has also contended that at the time of marriage a sum of Rs.1,00,000/- and about 100 grams of gold was given in as dowry, however the Petitioner along with other accused persons were harassing her to bring in additional dowry. On 28.1.2018 when the complainant was alone in the house about 5.30 p.m., the accused persons had come near her house and had pulled her hair and had attempted to stab her with a knife and accordingly a case came to be registered. Subsequently on the completion of investigation the charge sheet came to be filed.

9. In the above case, I have carefully appreciated the contentions and it is clear that the investigation is

completed and the charge sheet has been filed. Further on appreciation of the entire case files, there is no specific allegation against the Petitioner no.2 and 3. Be that as it may by appreciating the entire aspects of the case, it is clear that the Petitioners have made out ground for enlarging them on bail. When the charge sheet is filed and when the offences alleged are not punishable with life or death imprisonment, the bail application may be allowed. However, the apprehension of the prosecution can be taken care by imposing stringent conditions. Hence, I answer point no.1 in the **Affirmative.**

10. **Point No.2:-** For the reasons stated above, I proceed to pass the following:-

ORDER

Petition filed by the petitioners under Section 438 of Cr.P.C., is hereby allowed and the Respondent police are hereby directed to release the Petitioners on bail in the event of their arrest in Cr.No.175/18 filed by the Respondent Police for the offences punishable under Section.504, 323, 506, 498-(a) of Indian Penal Code and 3 and 4 of Dowry Prohibition Act on the file of the Civil Judge and

JMFC at Holenarasipura on executing a personal bond for Rs.50,000/- each with one surety for the likesum, subject to following conditions:

1. The petitioners shall not tamper the prosecution witness.
2. The petitioners shall not threaten or try to coerce the complainant witness and they shall not indulge in similar offences.
3. The petitioners shall regularly appear before the Investigating Officer and co-operate with him for the purpose of investigation and also they shall appear before the court on all dates of hearing.

(Dictated to the Stenographer directly on computer, typed by her, corrected and then pronounced by me in open Court, on this the 29th day of October 2018)

[Santhosh Gajanan Bhat]
5th Additional District & Sessions
Judge, Hassan.

Order not ready, call on 29.10.2018.

5th ADJ, Hassan.

(Orders pronounced in the open Court
Vide separate order)

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3. The petitioners shall regularly appear before the Investigating Officer and co-operate with him for the purpose of investigation and also they shall appear before the court on all dates of hearing.

5th ADJ, Hassan.