

**IN THE COURT OF THE ADDL. SESSIONS JUDGE , FTC-X AT
BANGALORE.**

DATED: THIS THE 10th DAY OF SEPTEMBER, 2012.

P R E S E N T :-

**Sri.G.S.SANGRESHI
B.A., LL.B (Spl.),
PRESIDING OFFICER,
FTC-X, BANGALORE CITY.**

CrI.Misc.No.4654/2012

PETITIONER : Raju, S/o Late Srinivasa,
Aged 41 years,
R/at No.65/2, 4th Main,
10th Cross, Kaneripura,
kamakshipalya, Bangalore.

(Rep. By Sri. K. Janardhan &
Associates., Advocates)

-Vs -

RESPONDENT : State of Karnataka by Kamakshipalya
Police Station, Bangalore.

(Rep. By Public Prosecutor)

ORDERS ON BAIL APPLICATION

This is a petition filed by the petitioner/accused U/Sec.439
of Cr.P.C., praying to release them on bail in Cr.No.475/2012 on

the file of Kamakshipalya Police Station registered for the offences punishable U/Sec.306 and 498A of IPC.

2. The brief facts of the complaint are that, the accused Raju married Smt.N.Varalakshmi, the daughter of the complainant about 7 years back and he was giving harassment to her and also abusing her in vulgar words saying that, she should die and thereby, gave instigation to Varalakshmi to die and on 26.08.2012 at 2.30 p.m. the parents of Varalakshmi had come to her house and found that the compound gate and house was locked. Then the complainant telephoned to the accused Raju and asked him to come. Then Raju came and opened the lock. When they went inside the house, they found Varalakshmi was unconscious and she was shifted to Vijayanagar Global Hospital, where she died on the same day at 6.00 p.m. The complainant has filed the complaint suspecting the death of his daughter and suspected on accused/petitioner and thereby complaint was filed by him.

3. The petitioner/accused has filed this petition mentioning the grounds that, the cause of death of Smt.Varalakshmi is not clear from the postmortem report and in other words her death is

a natural death. The death summary issued by Vijayanagar Global Hospital indicates that, her death may be due to "Cardio Pulmonary Arrest". During the investigation, the respondent police have not found any poisonous substance in the house. It is also pertinent to note that, there were no injuries on the body of Varalakshmi and P.M. report disclosed that, her stomach contained 100 ml of partially digested food, which clearly indicates that, she has taken normal food prior to her death. The medical records issued by NIMHANS hospital establish that, she was undergoing constant treatment for her abnormal behaviour and Epilepsy. Smt.Varalakshmi has tried to commit suicide twice in the year 2010. On both the occasions she was taken to Vijayanagar Global Hospital and Gayathri Hospital. This fact is within the knowledge of the complainant. But he did not disclose it. Even on 26.08.2012 the petitioner has taken his wife to Global Hospital and made all sincere efforts to save her. The petitioner has taken all sincere efforts to maintain harmony. The complaint is far from truth. Though Narayanappa filed complaint against his son-in-law, he did not bother to take care of his only grandson. The petitioner hails from respectably family. He is an Electrician

by profession having his own house. He has no criminal antecedents. He is a permanent resident of Bangalore City. He is ready and willing to abide by any conditions and co-operate with the investigating agency. Therefore, it is requested to allow the petition.

4. On the other hand, the learned Public Prosecutor has filed his detailed objections stating that, the petition is not maintainable. The Investigating Officer is investigating the matter and conducted the spot mahazar and recorded the statements of witnesses. The petitioner is not entitled for the bail as he has committed heinous offence. The petitioner has not looked after his wife well and instigated her to die by saying that, she should die. The postmortem itself reveals that, he has instigated his wife to commit suicide. If the accused/petitioner is released on bail, he may commit same offences and give threat to the witnesses and destroy the evidence and abscond from the case. Hence, it is requested to dismiss the bail petition of the petitioner.

5. Heard the arguments of the learned counsel for the petitioner and learned Public Prosecutor.

6. Now, the following points have arisen for my determination :

1. Whether the petitioner/accused has made out a case that they are to be released on bail U/Sec.439 of Cr.P.C., as prayed for ?
2. What Order ?

7. My findings on the aforesaid points are held as under:-

Point No.1: In the Affirmative,

Point No.2: As per final order below,

for the following:-

REASONS

8. POINT NO. 1:-

Perused the petition, F.I.R., complaint, objections of the learned Public Prosecutor and report of the P.I., remand application and other materials placed before the Court. The petitioner has also produced the certified copy of the judgement passed by V A.C.M.M., Bangalore, wherein he and other 3 persons are acquitted in the case filed by his wife Varalakshmi. It is noticed that, in the year 2010 itself, the deceased Varalakshmi

had filed a criminal case against the petitioner and other 3 persons for the offences punishable U/Sec.498A, 504, 506, 506(B), 323 r/w 34 of IPC. On perusal of the said judgement, it is seen that, Varalakshmi who was examined as PW1 in the case, has not stated anything against the petitioner and others saying that, accused have not subjected her to cruelty. Therefore, the petitioner and other 3 persons were acquitted from that case.

9. Now, the father of Varalakshmi by name Narayanappa filed this complaint against the petitioner saying that, petitioner is responsible for the death of his daughter who has instigated her to commit suicide by saying that, she should die. It is also seen from the postmortem report and death summary, wherein it is mentioned that, she suffered death due to Cardio Pulmonary Arrest and the doctor was not certain in saying that also. As per the postmortem report, the stomach contained 100 ml of partially digested food and the postmortem report does not disclose any poisonous food in her stomach so as to say that, she has died on consuming poisonous food. Therefore, it is noticed that, the Varalakshmi, has stated before the Criminal Court that, the petitioner and others have not subjected her to cruelty. The

complainant only stated that, the petitioner was not looking after his daughter well and he was abusing and harassing her. Only allegation against the petitioner is that, he has told her that, she should die. But the said fact has to be proved during the trial. Further, the alleged offence U/Sec.306 of IPC is not punishable with death or imprisonment for life. It is true that, it is triable by the Sessions Court. The cause of death and other allegations pointed out against the petitioner are to be ascertained and proved during the trial. Now, at this stage, I am of the opinion that, the petitioner deserves the grant of bail. Further, he is a permanent resident of Bangalore City, which is evident from the voter's I.D. card. The Police Inspector has stated in his report that, the petitioner may give threat to the complainant and other witnesses and he may abscond from the case as he has no moveable and immovable properties and that, the F.S.L. report is yet to be received. The said objections or apprehension of the prosecution may be safeguarded by imposing conditions. It is seen that, the Investigating Officer has conducted the majority of the investigation and the charge sheet has to be filed. In view of all these reasons and that, he is a permanent resident of

Bangalore City and also that, the alleged offence U/Sec.306 of IPC is not punishable with death or imprisonment for life, the petitioner is entitled for the grant of bail. Accordingly, I answer Point No.1 in the Affirmative.

10. **Point No.2**: In the result, I proceed to pass the following:

ORDER

The bail petition filed by the petitioner/accused U/Sec.439 of Cr.P.C., is hereby allowed.

The Petitioner is to be released on bail on executing his bond for a sum of Rs.25,000/- with one surety for the like sum to the satisfaction of the jurisdictional Magistrate with the conditions that:

1. He shall appear before the court on all the dates of hearing without fail.
2. He shall not leave the jurisdiction of the Bangalore City without prior permission of the committal Magistrate.

3. He shall appear before the Investigating Officer and assist him during the course of investigation as and when called for by the Investigating Officer.
4. He shall furnish documents regarding his address proof and to that of his surety.
5. He shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing the facts of the case to the Court or to any police officer.

(Dictated to the Stenographer, transcribed, computerised and print out taken by her, revised and corrected by me and then pronounced in the Open Court, on this the 10th day of September, 2012)

**(G.S. SANGRESHI)
PRESIDING OFFICER,
F.T.C –X, BANGALORE CITY.**