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Court : Karnataka

Decided On : Sep-01-2015

Judge : L. Narayana Swamy

Appeal No. : Cri.P.No. 5342 of 2015

Appellant : Ambarisha

Respondent : State of Karnataka

Judgement :

(Prayer: Crl.P filed U/s. 439 Cr.P.C by the Advocate for the petitioner praying that this Hon'ble Court may be pleased to enlarge the petitioner on bail in S.C.No. 46/2015 pending on the file of the II Addl.Dist and S.J., Chikkamagaluru for the offence P/U/S 3048, 302 of IPC and Sec.3 and 4 of the D.P.Act.)

L. Narayana Swamy, J. -

(1) Heard the learned counsel for the petitioner and the learned Government pleader appearing for the respondent - State.

(2) Petitioner is accused No. 1 in Cr. No. 289/2014 on the file of the respondent “Kadur Police Station, Chikkamagaluru District for the offences punishable under Ss. 302, 306 and 304 -B r/w Sec.149 of IPC and Ss. 3, 4 of Dowry Prohibition Act. He is in judicial custody since last 8 months and hence he has filed this bail application under Sec. 439 of Cr.P.C.

(3) The case of the prosecution is that one Lokesh lodged a complaint against the petitioner and others with the respondent - Police alleging that his sister was given in marriage with the petitioner - accused No. 1 on 13.11.2014. It is alleged petitioner is having illicit relationship with one Eramma of the same village. It is further alleged that petitioner and other accused have physically and mentally harassed and tortured the deceased. Several panchayaths were held in this regard. Villagers advised the petitioner to lead happy married life. In spite of that petitioner and other accused persons tortured the deceased. Being unable to bear the harassment by the petitioner and other accused on 14.12.2014 the deceased consumed some poison. Initially she was removed to Government Hospital at Kadur and on the advise of the Doctor she was then shifted to Shimoga Hospital, but on the way to Shimoga she died. On the basis of the said complaint the respondent - Police registered a case and took up the investigation.

(4) Learned counsel for the petitioner submits that petitioner - accused is innocent and a false case has been registered against him. Reading of complaint does not make out a prima facie case against him for the offences alleged. He contends that complaint averments about ill -treatment and harassment are all false and concocted story. He contends that question as to whether the petitioner is having illicit relationship or he along with others meted harassment to the deceased are all questions to be considered at the time of trial. He is permanent resident of Siddapura Village, Kadur Taluk. The investigation is completed and charge sheet has already been filed. He hails from respectable family. He is in judicial custody since last eight months. The petitioner undertakes to abide by any conditions that may be imposed by this court while granting the bail. Hence, he prays to allow the petition.

(5) On the other hand, learned Government Pleader vehemently opposes the bail application on the ground that there is a prima facie case against this petitioner accused. He submits that the offences alleged are very serious and the present petitioner is directly involved in the crime. He contends that the death occurred within two months from the date of marriage and at the residence of the petitioner. The prosecution has placed all the relevant documents on record. Therefore, he requests this court to dismiss the bail application.

(6) Perused the records.

(7) As could be seen from the records, the investigation is completed and charge sheet has already been filed. The petitioner is in judicial custody for more than eight months. There are no specific overt acts alleged against the petitioner accused. As rightly contended by the learned counsel for petitioner that the question as to whether the petitioner is having illicit relationship and abetted the deceased to commit suicide are the questions to be decided at the time of trial. Besides, the petitioner -accused hails from a respectable family having deep roots in the society. He is in judicial custody since last eight months. He undertakes to abide by any conditions that may be imposed by this court while granting the bail. Thus, the apprehension of the learned Government Pleader could be suitably met by imposing proper conditions. Hence the following:

ORDER

The bail petition is allowed. Petitioner is granted bail. Petitioner shall execute a personal bond for a sum of Rs. 50,000/- with one solvent surety for the like sum to the satisfaction of the jurisdictional court, subject to following conditions;

- 1) He shall not hold out threats to the prosecution witnesses or tamper with evidence;
- 2) Petitioner shall attend the court on all dates of hearing, except under unavoidable circumstances;
- 3) It is made clear that if he does not comply with any one of the conditions imposed on him, the prosecution is at liberty to seek cancellation of the bail from the concerned Sessions Court.

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