

Basappa vs the State

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Court : Karnataka Kalaburagi

Decided On : Mar-28-2025

Judge : S Rachaiah

Appeal No. : CRL.P/200496/2025

Appellant : Basappa

Respondent : The State

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH DATED THIS THE 28TH DAY OF MARCH, 2025 BEFORE THE HON'BLE MR. JUSTICE S RACHAIAH CRIMINAL PETITION NO.200496 OF 2025 (439(Cr.PC)/483(BNSS)) BETWEEN: BASAPPA S/O SIDAPPA KAKHANDAKI, AGE: 46 YEARS, OCC: AGRICULTURE, R/O BOLCHIKKALAGI, TQ: BABALESHWAR, DIST: VIJAYAPURA-586113. PETITIONER (BY MISS. VAISHNAVI MANGANE, ADVOCATE FOR SRI AVINASH A. UPLAONKAR, ADVOCATE) AND:

Digitally signed THE STATE THROUGH, by RENUKA BABALESHWAR POLICE STATION, Location: HIGH COURT OF DIST: VIJAYAPURA NOW REPRESENTED BY, KARNATAKA ADDL. SPP, HIGH COURT OF KARNATAKA, AT KALABURAGI BENCH-585107. RESPONDENT (BY SRI JAMADAR

SHAHABUDDIN, HCGP) THIS CRIMINAL PETITION IS FILED UNDER SECTION 483 OF BNSS PRAYING TO RELEASE THE ACCUSED/PETITIONER ON BAIL IN SPL.CASE NO.04/2025 (CRIME NO.138/2024 OF BABALESHWAR POLICE STATION) FOR THE OFFENCES -2- PUNISHABLE UNDER SECTIONS 61 (2)(A), 103(1) AND 3(5) OF BHARATIYA NYAYA SANHITA (BNS), 2023, PENDING BEFORE THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE AT VIJAYAPURA. THIS PETITION, COMING ON FOR ORDERS, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S RACHAIAH

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S RACHAIAH) The petitioner Basappa, who is arraigned as accused No.1 approached this Court seeking regular bail in Crime No.138/2024, for the offences under Sections 61(2)(a), 103(1) 3(5) of BNS, 2023.

2. The brief facts of the case are as under: The deceased Gaibusab Bisanal and accused No.2

Chandabi were husband and wife. Accused No.2 Chandabi Bisanal was having illicit relationship with accused No.1. The deceased Gaibusab had seen the accused Nos.1 and 2 in his land in a compromising position about 6 months prior to the incident. At that time, both accused Nos.1 and -3-

2 decided themselves that they should eliminate Gaibusab in order to continue their illicit relationship. So on 10.09.2024, at about 12-30 p.m., when the accused No.1 was going towards his neighbors land by passing through the land of Gaibusab, the deceased Gaibusab started scolding him as to why accused No.1 had come there even though he was instructed not to come that side. The quarrel ensued between them. Accused No.1 stated to have committed murder of Gaibusab. A complaint came to be registered by Sri B. G. Bisanal, who is the son of the

deceased by suspecting the death, requested t

conducting the investigation, submitted the charge sheet.

3. Heard Miss Vaishnavi Mangane, learned counsel for the petitioner and Sri Jamadar Shahabuddin, the learned High Court Government Pleader for the respondent/State. -4-

4. It is the submission of the learned counsel for the petitioner that the entire case is based on the circumstantial evidence. The petitioner has been implicated in this case unnecessarily without any basis.

5. The facts have been narrated on the strength of

the voluntary statement, that may not be proper and correct. At this stage, the said facts and circumstances cannot be considered as the truth of the case. When the case is based on the circumstantial evidence and there is no nexus between the presumption and reality, in such circumstances, the petitioner may be enlarged on bail by imposing suitable conditions. Making such submissions, he prays to allow the petition.

6. Per contra, learned High Court Government

Pleader vehemently submitted that even though the entire case is based on the circumstantial evidence, the fact remains that there are witnesses, who have seen the petitioner, who was going towards the land of Gaibusab. When the last seen theory indicates that the petitioner -5- might have committed the murder, under such circumstances, prima facie, the case of the prosecution is proved and the petitioner is not entitled for any relief. Making such submissions, he prays to dismiss the petition.

7. Having heard the learned counsel for the

respective parties and also perused the averments of the charge sheet and the complaint, it appears from the record that the petitioner herein alleged to have illicit relationship with accused No.2, who is none other than the wife of the deceased Gaibusab. Both accused Nos.1 and 2 stated to have decided to eliminate the said Gaibusab in

order to continue their illicit relationship. Therefore, the

petitioner stated to have committed murder of the deceased Gaibusab.

8. Be that as it may, the entire case is based on

the circumstantial evidence. Even assuming that the last seen theory witness is there and he narrated that the petitioner was going towards the land of the Gaibusab, that may not be sufficient to hold that the petitioner has -6- committed offences. Having said thus, I am of the considered opinion that the petitioner has made out a case to grant bail. It is needless to say that when the case is based on the circumstantial evidence, the Courts are requested to consider the bail applications in such cases liberally in order to give an effect to the fundamental rights guaranteed under Article 21 of the Constitution of India.

9. In the light of the observations made above, I proceed to pass the following:

ORDER

(i) The criminal petition is allowed.

(ii) The petitioner is enlarged on bail in S.C.

No.4/2025 (Crime No.138/2024 of Babaleshwar Police Station) for the offences punishable under Sections 61(2) (a), 103(1) and 3(5) of BNS, 2023, by executing personal bond for a sum of Rs.1,00,000/- with one surety for the -7- likesum to the satisfaction of the Trial Court on the following conditions: a. The petitioner shall not threaten or tamper the prosecution witnesses. b. The petitioner shall appear before the Trial Court on all hearing dates without fail. Sd/- (S RACHAIAH) JUDGE
RSP List No.: 1 SI No.: 17 CT:PK

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