
(2018) 01 KAR CK 0108
In the Karnataka High Court
Case No : 8895 of 2017

Mahaboobi & Ors.

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 02-01-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 438](#) - Direction for grant of bail to person apprehending arrest
[Indian Penal Code, 1860](#), [Section 302](#),
[Section 34](#)

Citation : (2018) 01 KAR CK 0108

Hon'ble Judges : Budihal R.B.

Bench : Single Bench

Advocate : C H Jadhav, Rashmi Jadhav, K Nageshwarappa

Judgement

1. This petition is filed by the petitioners/accused Nos.2 and 3 under Section 438 of Cr.P.C. seeking anticipatory bail, to direct the respondent-

police to release the petitioners on bail in the event of their arrest for the offences punishable under Sections 498A, 302, 304B r/w Section 34 of

IPC and also under Sections 3 and 4 of the Dowry Prohibition Act registered in respondent police station Crime No.80/2017.

2. Heard the arguments of the learned senior counsel appearing for the learned counsel for the petitioners/accused Nos.2 and 3 and also the learned

High Court Government Pleader appearing for the respondent-State.

3. Learned senior counsel on the merits of the case has submitted that even in the earlier bail application it has been observed by this Court that no

overt acts are attributed against the petitioners-accused Nos.2 and 3. Now the investigation is completed and charge sheet is also filed. So far as

the petitioner No.2/accused No.3 is concerned, it is submitted that he is residing

separately from the other members of the family. In this connection, he drew the attention of this Court to the entries in the ration card. In respect of petitioner No.1/accused No.2 he has submitted that he is aged about 62 years. Hence, it is submitted that by imposing reasonable conditions, petitioners may be enlarged on bail.

4. Per contra, learned High Court Government Pleader during the course of his arguments submitted that in the complaint as well as in the FIR the names of these two petitioners are clearly mentioned. There are allegations against the present petitioners. Earlier bail petition has been already rejected. Referring to the order sheet maintained by the trial Court he has submitted that charge sheet has been filed showing these two accused persons as absconding accused and NBW is also issued. In view of these facts, petitioners are not entitled to be granted with bail.

5. I have perused the grounds urged in the bail petition, FIR, complaint and other materials laced on record.

6. Earlier also the petitioners herein had approached this Court in CrI.P.No.5894/2017. This Court by its order dated 30.8.2017 considering the merits of the case rejected the bail petition of the petitioners herein observing that though no specific overt act is attributed against the petitioners, since petitioners have not co-operated with the investigation officer for investigation they are not entitled to seek relief under Section 438 of Cr.P.C.

7. When this Court looking to the conduct of the petitioners has already opined that since they have not co-operated with the investigation agency they are not entitled to anticipatory bail, petitioners have to surrender before the concerned Court and make an application seeking regular bail.

8. Therefore, petition is hereby rejected. In case petitioners surrender before the Court below and makes an application seeking their release on regular bail, the concerned Court shall consider the same on priority and to dispose of the same in accordance with law, as expeditiously as possible.