

(2023) 04 KAR CK 0002
In the Karnataka High Court
Case No : Criminal Petition No. 894 Of 2023

Mohammed Tousif

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 06-04-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Dowry Prohibition Act, 1961 — Section 3, 4
Indian Penal Code, 1860 — Section 498A

Citation : (2023) 04 KAR CK 0002

Hon'ble Judges : V Srishananda, J

Bench : Single Bench

Advocate : Shakeel Ahmad, S Vishwa Murthy

Final Decision : Allowed

Judgement

V Srishananda, J

1. Heard Sri. Shakeel Ahamed, learned counsel for the petitioner and Sri. S. Vishwa Murthy, learned High Court Government Pleader for the respondent-State.

2. Present petition is filed under Section 438 of Cr.P.C. with the following prayer:

"WHEREFORE, the above named petitioner most humbly prays that this Hon'ble Court may be pleased to enlarge the petitioner on bail in Crime No.136/2022 punishable u/s 498(A) of the Indian Penal ode read with Section 3 and 4 of the Dowry Prohibition Act, 1961, of respondent Bharathi Nagar police pending before the XI Additional Chief Metropolitan Magistrate Court at Bangalore, in the interest of justice."

3. The brief facts of the case are as under:

Shyamir Khan lodged a complaint with Bharathi Nagar Police on 05.12.2022 against the petitioner, which was registered in Crime No.136/2012 for the offence punishable under Section 498A of the Indian Penal Code, 1860 (hereinafter

referred to as 'IPC' for short) and under Sections 3 and 4 of the Dowry Prohibition Act, 1961 (hereinafter referred to as 'DP Act' for short).

4. Gist of the complaint averments reveal that the present petitioner was married to the daughter of the complainant as per Muslim customs and it was a love marriage. After the marriage, the couple lived for sometime happily and thereafter on the pretext of demand of dowry, the daughter of the complainant was harassed physically and mentally resulting in filing of the case.

5. The attempt made by the petitioner for grant of anticipatory bail before the LXXI Additional City Civil and Sessions Judge, Bengaluru was rejected in Crl. Misc. No.12397/2022. Thereafter, the petitioner is before this Court.

6. Sri. Shakeel Ahamed, learned counsel for the petitioner reiterating the grounds urged in the bail petition sought for grant of anticipatory bail.

7. Per contra, learned High Court Government Pleader opposes for grant of anticipatory bail.

8. In the light of the rival contentions, this Court perused the materials on record meticulously.

9. In view of the fact that the marriage is a love marriage, question of demand of dowry per se appears to be artificial.

10. Be that what it may. Prima facie it is for the Investigation Agency to find out the veracity of the complaint averments.

11. Taking note of the decision of the Hon'ble Supreme Court in the case of ARNESH KUMAR Vs. STATE OF BIHAR AND Anr. reported in AIR 2014 SC 2756, this Court is of the considered opinion that directing the petitioner to join the investigation and undergo limited period of custodial interrogation, would meet the ends of justice.

12. Inasmuch as the petitioner is not available to the Investigation Agency from the date of registration of the case, this Court passes the following:

ORDER

1. The Criminal Petition is allowed.

2. Petitioner-accused is directed to join the investigation by appearing before the Investigating Officer on 17.04.2023 at 10.00 a.m. Investigating Officer is at liberty to take the petitioner to custody and complete the custodial investigation on the same day before 6.00 p.m. Thereafter, the petitioner be enlarged on bail on executing a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for the like-sum to the satisfaction of the Investigating Officer;

3. Petitioner shall attend the Court regularly;

4. Petitioner shall not tamper with the prosecution witnesses directly/indirectly;

5. Petitioner shall not leave the jurisdiction of Bengaluru District without prior permission;

If any of the above conditions are violated, the prosecution is at liberty to seek for cancellation of this bail order.