

(2023) 09 KAR CK 0066
In the Karnataka High Court
Case No : Criminal Petition No. 5718 Of 2023

Shankara

APPELLANT

Vs

State By Saragur Police Station, Rep By Its State Public
Prosecutor, High Court Building, Bangalore-1

RESPONDENT

Date of Decision : 27-09-2023

Acts Referred:

Indian Penal Code, 1860 — Section 306, 498A
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2023) 09 KAR CK 0066

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Syed Abdul Saboor, Sowmya.R

Final Decision : Allowed

Judgement

S Vishwajith Shetty, J

1. Accused in S.C.No.226/2022 pending before the Court of V Addl. District & Sessions Judge, Mysuru, arising out of Crime No.32/2022 registered by the Saragur Police Station, Mysuru, for the offences punishable under Sections 498A and 306 of IPC is before this Court under Section 439 Cr.P.C.

2. Heard learned counsel for the parties.

3. On the complaint lodged by Manjula dated 24.02.2022, FIR in Crime No.32/2022 was registered by the Saragur Police Station, Mysuru, against the petitioner herein for the aforesaid offences.

4. In the complaint it is averred that the complainant's daughter Pavithra was married to the petitioner and the couple had no children from the wedlock. The petitioner used to consume alcohol daily and he was not going for work. After consuming alcohol he was allegedly quarrelling with his wife and also was not providing her maintenance. On 24.02.2022 at about 11.30 A.M., the complainant was informed by the petitioner that Pavithra had committed suicide by hanging

herself in the house. Immediately, thereafter complainant went to the matrimonial house of her daughter and found the dead body of Pavithra and she also found a death note inside her fist. In the said death note it was mentioned that petitioner was the cause for her death. It is in this background, complainant had approached the police and lodged the complaint, which had resulted in registering of FIR in Crime No.32/2022 against the petitioner. During the course of investigation, petitioner was arrested on 24.02.2022 and ever since he is in custody. Investigation in the case is completed and charge sheet has been filed.

5. Petitioner's bail application filed before the Court of the V Addl. District & Sessions Judge, Mysuru, in S.C.No.226/2022 was rejected on 10.11.2022. Therefore, he is before this Court.

6. Learned counsel for the petitioner having reiterated the grounds urged in the petition prays to allow the petition.

7. Per contra, learned HCGP has opposed the bail application.

8. From the perusal of the complaint averments and the charge sheet allegations, it is seen that the petitioner was addicted to alcohol and he was not working and on the other hand he was allegedly torturing Pavithra and also not providing her maintenance. It is further alleged that since Pavithra had not conceived after marriage, petitioner was ill-treating her. In the alleged death note except stating that the petitioner is the cause for her death, there is no allegation of any ill-treatment or torture by the petitioner immediately prior to Pavithra committing the act of suicide. For the purpose of attracting an offence under Section 306 of IPC, the act of accused immediately prior to the deceased committing suicide should have either instigated or abetted the deceased to commit suicide. Such an ingredient is not prima-facie found in the present case. Therefore, I am of the view that the petitioner's prayer for grant of regular bail is required to be answered in the affirmative. Accordingly, the following order:

9. The petition is allowed. The petitioner is directed to be enlarged on bail in S.C.No.226/2022 pending before the V Addl. District & Sessions Judge, Mysuru, arising out of Crime No.32/2022 registered by the Saragur Police Station, Mysuru, for the offences punishable under Sections 498A and 306 of IPC, subject to the following conditions:

- a) Petitioner shall execute personal bond for a sum of Rs.1,00,000/- (one lakh) with two sureties for the likesum, to the satisfaction of the jurisdictional Court;
- b) Petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;
- c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;
- d) The petitioner shall not involve in similar offences in future;
- e) The petitioner shall not leave the jurisdiction of the Trial Court without

permission of the said Court until the case registered against him is disposed off.