

**(2017) 02 KAR CK 0188**  
**In the Karnataka High Court**  
**Case No : 200139 of 2017**

Tukaram S/o Kallappa Nelge

APPELLANT

Vs

The State through Mannalli Police Station

RESPONDENT

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**Date of Decision :** 09-02-2017

**Acts Referred:**

[Code of Criminal Procedure, 1973](#), [Section 439](#) - Special powers of High Court or Court of Session regarding bail  
[Indian Penal Code, 1860](#), [Section 302](#) - Punishment for murder

**Citation :** (2017) 02 KAR CK 0188

**Hon'ble Judges :** B. A. Patil

**Bench :** SINGLE BENCH

**Advocate :** Anilkumar Navadagi, Vijaylaxmi Navadagi, P.S.Patil

**Final Decision :** Allowed

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## Judgement

1. This petition is filed by the petitioner/accused No.1 under Section 439 of Cr.P.C., seeking regular bail in Crime No.69/2016 of Mannalli Police Station, Dist. Bidar, registered for the offences punishable under Sections 302 of IPC.

2. The case of prosecution is that the complainant Basawaraj is a resident of Shirkatnalli village and is a petty vendor of pins and hooks. He married deceased Meenakshi about 10 years back. About one year back, he started working in the garden land of one Hibare in Kabirabadwadi village and started residing with his family in the said garden land. The complainant and his wife Meenakshi came into contact with a shepherd by name Tukaram i.e., accused No.1. It is alleged that Meenakshi developed illegal intimacy with said Tukaram and after coming to know of this affair, complainant and others held a panchayat and counseled Tukaram and dispute was settled. It is further case of the prosecution that about 2 months prior to the incident, the complainant Basawaraj and his family settled at Meenaekheli village. On 15-06- 2016, complainant and his wife Meenakshi went to sell pins and hooks to Chimmanchod village on a motorcycle. The

complainant left his wife in the said village and went to sell his goods and at about 5:00 PM, when he returned to Chimmanchod village, he did not find his wife Meenakshi. A search was made by the complainant for his wife at various places, but Meenakshi was not traced out and on 28-07-2016, when complainant had been Bhemalkheda village, hearing the news that a lady has committed suicide by hanging in the limits of Manhalli village, he visited respondent P.S. and after seeing the photographs, cloths and ornaments of the lady, he identified the deceased as his wife Meenakshi. Suspecting accused No.1 Tukaram to be behind the murder of his wife, he lodged FIR against him.

3. I have heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for respondent-State.

4. The main grounds urged by the learned counsel for the petitioner are that the petitioner is not concern to the alleged crime and there are no eyewitnesses to the alleged incident. Only on the suspicion and the earlier illicit relationship, the petitioners and other accused persons have been apprehended and they have been kept in custody. It is contended that already accused Nos.2 and 3 have been released on bail by this Court and even on the ground of parity the petitioner is entitled to be released on bail. It is also contended that the only allegation made against the petitioner is that he himself has made confession before the police that along with other accused persons he has committed the alleged offence which is not correct. It is further contended that already the investigation has been completed and charge-sheet has been filed, therefore, the petitioner is not required for the purpose of further interrogation or investigation. Further, it is contended that if the petitioner is released on bail, he is ready to abide by the conditions to be imposed by this Court and he is ready to offer sureties. On these grounds, he prays for allowing the petition.

5. On the contrary, learned High Court Government Pleader appearing for the respondent-State vehemently contended that it is accused No.1 who is the main cause for the death of the deceased. The facts also indicate that the petitioner along with other accused persons earlier caused the death by strangulating and thereafter hanged the body to the tree only with an intention to screen the offence. He has also contended that at this juncture, if the petitioner is released on bail, there is likelihood of he being absconded and he may not be available for trial. On these grounds, he prays for dismissal of the petition.

6. I have gone through the copy of the FIR, complaint and other material produced along with the petition.

7. The complaint averments go to show that the petitioner was having illicit relationship with the deceased. In that regard, the community and her husband have advised to leave the relation. In that context, the death of the deceased has taken place and during the course of investigation in the voluntary statement said to have been made by accused No.1, he has stated that he along with accused Nos.2 and 3 have committed the alleged offence. There are no

eyewitnesses to the alleged incident and already accused Nos.2 and 3 who were also involved in the alleged crime have been released on bail by this Court in Criminal Petition No.201065/2016 by order dated 14.09.2016. Except the voluntary statement of accused No.1, the investigation papers reveals that no other prima facie material is there to connect or to show that the petitioner has involved in the alleged crime. When the petitioner is ready to abide by the conditions to be imposed by this Court and ready to offer sureties, that too when already accused Nos.2 and 3 have been released on bail, even on the ground of parity, the petitioner is entitled to be released on bail. Under such circumstances, I feel that by imposing some stringent conditions if the petitioner is released on bail, it would safeguard the interest of the prosecution and it would meet the ends of justice.

8. For the above reasons, the petition is allowed and petitioner/accused No.1 is ordered to be released on bail, subject to the following conditions:

- i. The petitioner shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) with two solvent sureties for the likesum to the satisfaction of the jurisdictional Court;
- ii. The petitioner shall not tamper with any of the prosecution witnesses directly or indirectly;
- iii. The petitioner shall make himself available to the Investigating Officer as and when required;
- iv. The petitioner shall appear before the trial Court on all the dates of hearing without fail.