

(2023) 03 KAR CK 0022

In the Karnataka High Court

Case No : Criminal Petition No. 100402 Of 2023

Uma Maheshwari B. D/O Srinivas & Others

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 09-03-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 109, 307, 323, 324, 504

Citation : (2023) 03 KAR CK 0022

Hon'ble Judges : J.M. Khazi, J

Bench : Single Bench

Advocate : Manjunath A. Karigannavar, Girija S.Hiremath

Final Decision : Allowed

Judgement

J.M. Khazi, J

1. The petitioners who are arraigned as accused Nos.1 and 2 have filed this petition under Section 439 of Code of Criminal Procedure (for short, 'the Cr.P.C.') seeking bail in Crime No.260/2022 of Gangavathi Town Police Station for the offences punishable under Sections 323, 324, 307, 504, 109 R/W Section 34 of Indian Penal Code (for short, 'the I.P.C.').

2. Accused Nos.1 and 2 have contended that they are innocent of the offences alleged and that they have been falsely implicated. The allegations against them are that at the instigation of accused Nos.3 and 4, they assaulted the victim-Manjula who is no other than the mother of accused No.1. The complaint is based on the information given by Rakshita, another daughter of the complainant. Accused are arrested on 25.12.2022 and then they are in judicial custody. Already investigation is completed and no longer the presence of accused No.1 and 2 is required for further investigation. The accused are ready to abide by any of the conditions that may be imposed and prays to allow the petition.

3. On the other hand, learned High Court Government Pleader submitted oral objections contending that complainant-Srinivasalu B., accused No.3-Krishna @ Kitti and accused No.4-Chandrashekhar are brothers. The complainant is having four children by name Shwetha, accused No.1-Uma Maheshwari, Karthik and Rakshita. The injured Manjula is the wife of the complainant. Since childhood, two children of the complainant namely accused No.1-Uma Maheshwari and Karthik are living with accused No.2 and 3 i.e. their paternal junior uncle and aunt and there used to quarrel between these persons on the allegations that the injured Manjula, the mother of accused No.1-Uma Maheshwari and Karthik is indulged in black magic and alleging that she is responsible for the failure for alliance which was sent for accused No.1, accused No.2 assaulted Manjula with machchu (chopper) and caused bleeding injuries. Accused Nos.1, 2 and 4 are arrested on 25.12.2022.

4. Accused No.4 is granted bail. However, accused No.3 is absconding. Though the injured Manjula is discharged from the hospital, the injury certificate reveal that she has sustained 11 injuries, out of which injury Nos.6 to 8 are grievous in nature. The presence of accused No.3 is to be secured yet and prays to reject the petition.

5. Heard arguments and perused the record.

6. From the complaint averments, it is evident that complainant-Srinivasalu B., accused No.3-Krishna @ Kitti, accused No.4-Chandrashekhar are brothers. The complainant and his wife-Munjula who is injured are having four children viz., Shwetha, accused No.1-Uma Maheshwari, Karthik and Rakshitha. It is stated in the complaint that accused No.1-Uma Maheshwari and Karthik are living with accused Nos.2 and 3 who are their junior uncle and aunt and there are allegations that injured Manjula-natural mother of accused No.1-Uma Maheshwari and Karthik is indulged in black magic and there used to frequent quarrel between them. It is also alleged that marriage talks were going on in respect of the marriage of accused No.1-Uma Maheshwari and due to the false allegations made by Manjula the said alliance could not be went through.

7. In this background, it is alleged that on 24.12.2022 accused No.1-Uma Maheshwari, accused No.2-Vanajakshi @ B. Laxmi assaulted the injured Manjula. On the information furnished by his another daughter, complainant reached the spot and found injured Manjula being assaulted by accused No.1-Uma Maheshwari and accused No.2- Vanajakshi @ B. Laxmi. The main allegations are against accused No.1-Uma Maheshwari that she was assaulting the injured with Machchu whereas accused No.2-Vanajakshi @ B. Laxmi was kicking her with legs.

8. The incident is dated 24.12.2022. Accused Nos.1, 2 and 4 are arrested on 25.12.2022. Already recovery of the weapon of offence used is made. Accused No.4 is granted bail. Having regard to the fact that the incident is dated 24.12.2022, it would be reasonable to accept that major portion of the investigation is completed. Having regard to the nature of the allegations made

and the fact that almost three months are completed from the date of complaint, this Court is of the considered opinion that accused Nos.1 and 2 are entitled for bail, subject to stringent conditions. Accordingly, I proceed to pass the following:

ORDER

Petition is allowed. Petitioner/accused Nos.1 and 2 are released on bail in Crime No.260/2022 of Gangavathi Town Police Station for the offences punishable under Sections 323, 324, 307, 504, 109 read with Section 34 of I.P.C., subject to following:

CONDITIONS

- a) The petitioner/accused Nos.1 and 2 shall execute a personal bond in a sum of Rs.1,00,000/- each with two sureties for the like-sum.
- b) Petitioner/accused Nos.1 and 2 shall make themselves available for the purpose of investigation as and when required and they shall co-operate with the investigation.
- c) Petitioner/accused Nos.1 and 2 shall furnish their residential address proof and shall inform the investigating officer/Court if there is any change in the address.
- d) Petitioner/accused Nos.1 and 2 shall not threaten or tamper with the prosecution witnesses either directly or indirectly.
- e) Petitioner/accused Nos.1 and 2 shall not indulge in any criminal activities.
- f) Petitioner/accused Nos.1 and 2 shall be regular in attending the Court proceedings.