

Karnataka High Court  
Mahesh vs The State on 16 May, 2023  
Bench: Rajesh Rai K

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CRL.P No. 200339 of 2023

IN THE HIGH COURT OF KARNATAKA  
KALABURAGI BENCH

DATED THIS THE 16TH DAY OF MAY, 2023

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K.

CRIMINAL PETITION NO.200339/2023

BETWEEN:

MAHESH  
S/O SHREEMANT KADAGANCHI  
AGE 25 YEARS OCC. AGRICULTURE  
R/O HADALAGI VILLAGE  
TQ. AND DIST. KALABURAGI-585236

...PETITIONER

(BY SRI S.B. SANGOLAGI, ADVOCATE)

AND:

Digitally signed by  
SACHIN  
Location: High Court  
of  
Karnataka

THE STATE  
THROUGH NIMBARGA POLICE STATION  
TQ. ALAND DIST. KALABURAGI  
(REPRESENTED BY LEARNED ADDL. SPP  
HIGH COURT  
KALABURAGI-585107)

...RESPONDENT

(BY SRI GURURAJ V. HASILKAR, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION  
439 OF CR.P.C., PRAYING TO RELEASE THE PETITIONER  
ON BAIL IN CRIME NO.119/2022 OF NIMBARGA POLICE

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CRL.P No. 200339 of 2023

STATION, DIST. KALABURAGI, FOR THE OFFENCES

PUNISHABLE UNDER SECTIONS 498A, 306 R/W 34 OF IPC  
PENDING BEFORE THE III ADDL. DIST. AND SESSIONS  
JUDGE AT KALABURAGI

THIS PETITION COMING ON FOR ORDERS, THIS  
DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. This petition is filed seeking bail in Crime No.119/2022 dated 07.12.2022 of Nimbarga Police Station, Kalaburagi District, for the offences punishable under Sections 498A, 306 read with Section 34 of IPC, wherein this petitioner is arrayed as accused No.1.

2. The factual matrix of the case are that, the complaint came to be filed by one Kalyani Ramanna Jogan on 07.12.2022 alleging that one Shivalamma being the daughter of the complainant was married to petitioner - Mahesh. After marriage, for about one year the said Shivalamma lead happy married life in the matrimonial CRL.P No. 200339 of 2023 house. Later she was harassed physically and mentally on the ground that she is not good looking and she does not know how to cook food. The elders of the family convened Panchayat, wherein, the petitioner and his parents were advised to look after the deceased in proper manner. Despite said advise, the petitioner and his mother harassed the deceased. When the matter stood thus, on 05.12.2022 at about 10:30 a.m., the mother of the petitioner locked the house from outside after pulling Shivalamma out of the house and told her that her husband has gone out of the house and she should join him. The deceased telephoned to the petitioner and intimated him and she was advised by the petitioner to stay in the matrimonial house. However, at about 2:30 p.m., on 06.12.2022 when complainant and his wife and others having lunch, at that time one Sachin came to the house of the complainant and intimated that his daughter Shivalamma fell into a Well and committed suicide and the CRL.P No. 200339 of 2023 dead body is floating in the Well. Immediately she was shifted to the hospital, thereafter they approached the Police and lodged a complaint. Based on the said complaint the respondent/police registered a case against the petitioner and his mother as stated supra. During the course of investigation, the petitioner was arrested on 08.12.2022. Being aggrieved by the same, petitioner approached the III Additional District and Sessions Judge, Kalaburagi in Crl.Misc. No.403/2023 for grant of regular bail, which came to be dismissed on 20.03.2023. Hence, he approached this Court by filing this petition for grant of bail.

3. Heard learned counsel for the petitioner and the learned HCGP for the respondent-State.

4. Learned counsel for the petitioner contended that on perusal of the complaint averments and other charge-sheet materials, the specific allegations are made CRL.P No. 200339 of 2023 against the mother of the petitioner i.e., accused No.2 that she insisted the deceased to commit suicide and she has been granted bail by this Court in Crl.P. No.200054/2023 dated 21.02.2023. This petitioner being the husband at no point of time he harassed his wife either physically or mentally and nor insisted her to commit suicide. As such the alleged offences under Section 498A and 306 of IPC does not attract against the petitioner. He would further contend that the petitioner is in custody from the date of his arrest i.e. from 08.12.2022 and the investigation is almost completed and as such incarnation of the petitioner in the custody does not called for. Accordingly, he prays to allow the

petition.

5. Per contra, learned HCGP vehemently contended that by perusal of the investigation papers the petitioner being the husband of the deceased solely responsible for the suicidal death of the deceased. He would further contend that the petitioner harassed his wife CRL.P No. 200339 of 2023 both physically and mentally and as such the deceased committed suicide. Hence, there is a prima facie case made out against the petitioner for the offences punishable under Sections 498A and 306 of IPC. Hence, he prays to dismiss the petition.

6. Having heard the learned counsel for the petitioner and the learned HCGP for the respondent-State it could be seen from the complaint, on 05.12.2022 at about 10:30 a.m., the mother of the petitioner i.e., accused No.2 locked the house from outside after pulling the deceased Shivalamma out of the house and told her that her son has gone out of the house and she should join him. Hence, the deceased committed suicide by jumping into the Well situated near the house of the petitioner. Hence, there is no instigation or active role by this petitioner soon before the death of his wife. The Hon'ble Apex Court in catena of judgments has held that in order to attract the provisions of Section 306 of IPC, there must CRL.P No. 200339 of 2023 be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being positive action proximate to the time of occurrence on the part of accused which laid or compelled the person to commit suicide, the provisions under Section 306 of IPC is not sustainable. My view is fortified by the judgment of the Apex Court in the case of Mariano Anto Bruno and another Vs. The Inspector of Police reported in 2022 live law (SC) 834. Moreover, accused No.2 mother of the petitioner has been enlarged on bail by the co-ordinate Bench of this Court in Crl.P. No.200054/2023 on 21.02.2023.

In that view of the matter, I am of the considered opinion that the petitioner be admitted on bail. Accordingly, the petition is allowed. The petitioner/ accused is granted bail in respect of Crime No.119/2022 of Nimbarga Police Station, for the aforesaid offences, subject to following conditions:

CRL.P No. 200339 of 2023

1. Petitioner/accused shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh) with one surety for the likesum to the satisfaction of the concerned Court;
2. Petitioner/accused shall not directly or indirectly threaten or tamper with the prosecution witnesses;
3. Petitioner/accused shall appear before the Trial Court on all the dates of hearing without fail;
4. Petitioner/accused shall not leave the jurisdiction of the trial Court without its prior permission;

If there is violation of any one of the above conditions, prosecution is at liberty to move for cancellation of bail.

Sd/-

JUDGE SBS