



**IN THE COURT OF THE V ADDL.SSESSIONS JUDGE,
BELGAVI, AT BELGAVI**

**PRESENT: SMT.K.KATHYAYANI,
B.Com., LL.M.,
V Addl. District & Sessions Judge,
Belagavi.**

Crl.Misc.No.965/2023

Dated: This the 8th day of August, 2023

PETITIONER/S:

Sri.Kiran S/o Vilas Gurav,
Age: 31 Years, Occ: Private Service,
R/o: Plot No.37/B, Sy.No.50/2,
Christian Colony, Shahu Nagar,
Belagavi – 590 006.
(By Sri.B.R.Kapahi, Advocate.)

Vs.

RESPONDENT/S:

The State of Karnataka,
through Women Police Station.
(By learned Public Prosecutor.)

ORDER

The counsel for the petitioner (for short, “the accused”) has filed the present petition under Section 438 of Cr.P.C. seeking anticipatory bail.

2. The brief facts of the case are as they follow.

(1) CW-1 Smt.Dhanashri Kiran Gurav Urf Vajantri has filed the complaint alleging that;

(i) Her marriage with the accused was a love marriage and was solemnized on 02.07.2019.

(ii) Since it was not possible for her to lead a married life with the accused, on account of his mental and physical harassment, she has filed divorce petition in MC.No.28/2023 on the file of the learned 1st Addl. Family Court, Belgavi, wherein the accused has appeared through his counsel and the case was stand posted for conciliation by 24.06.2023.

(iii) In the meanwhile, on 25.04.2023, at 7:30 p.m., the accused under intoxication of alcohol, visited her maternal house; threatened her with dire consequences and the neighbours advised the accused and sent him back.

(iv) Again on 04.05.2023, at 6:30 p.m., on knowing that her parents were not in the house, the accused came to her house; abused her in filthy language; threatened to kill her; she called to Police Helpline No.112, but, the police did not attend her call.

(v) Again at 8:00 p.m.. the accused came to her maternal house; caused damage to the TVS Jupiter vehicle parked in the compound; when she called to police, they came and warned the accused.

(vi) Again the accused came back at 1:00 a.m. and caused damages to the motor car of her father bearing

No.KA-25/MD-2937, removed air from the wheels, damaged the window net and caused damage to the foot-wears and also taken away the clothe that were put outside for drying.

(2) Based on the above complaint, Women Police, Belagavi have registered case in their station Cr.No.40/2023 for the offences under Sections 498(A), 452, 427, 323, 504 and 506 of IPC.

3. Under these circumstances, apprehending his arrest, the accused has come up with this petition seeking anticipatory bail on the following grounds;

(1) He is innocent and he has not committed any offences as alleged against him.

(2) He was implicated falsely in the said crime on vague and flimsy accusations.

(3) There is delay of 14 days in lodging the complaint and there is also delay in sending the FIR to the jurisdictional Magistrate.

(4) In the course of conciliation proceedings in M.C.No.28/2023, the complainant herself shown her interest to return back the matrimonial house; on that ground, he met her on 25.04.2023. Further allegations with regard to the incident on 04.05.2023 are all false and imaginary.

(5) Now, the complainant is not willing to stay with

him and wanted to move out of matrimonial company. She has falsely charged him of treating her with cruelty without any justification and proof.

(6) The complainant has at no point of time suffered any injuries and her allegations against him are general and vague

(7) The complainant is not interested in leading marital life with him and she is intending to stay separately from him due to the reasons best known to her and in this regard, prior to filing the present complaint, she has already filed divorce case in MC.No.28/2023.

(8) The complainant has foisted this false case against him with dishonest intention of pressuring him to agree for divorce.

(9) He is resident of Belagavi having his fixed place of abode within the limits of this Court and hence, there is no chance of his absconding, if he is released on bail.

(10) He is not required for custodial investigation.

(11) He is ready to appear before the IO for the purpose of investigation whenever directed to do so.

(12) He is ready and willing to abide by any of the conditions that may be imposed to release him on anticipatory bail.

(13) He undertakes not to tamper with any of the

prosecution witnesses and he will make available before this Court when his presence is required.

(14) He is ready to furnish surety and security to the satisfaction of this Court. Accordingly, prayed to allow the petition.

4. On the other hand, the learned Public Prosecutor has filed his statement of objections along with IO report stating the gist of the complaint and denying the grounds urged by the accused had contended that;

(1) The offences alleged against the accused are heinous in nature.

(2) If this accused is enlarged on bail, there is every chance of his hampering the investigation and tampering the prosecution witnesses and committing similar offence.

(3) If this accused is enlarged on bail, he may abscond from the case.

(4) Hence, under such circumstances of the case, he is not entitled for anticipatory bail. Therefore, prayed to dismiss the petition.

5. Heard both the sides on merits of the case and perused the records.

6. On the above noted rival contentions of the parties, the points that arise for the due consideration of this Court are;

- (1) Whether the petitioner/the accused is entitled to be released on anticipatory bail at this stage?
- (2) What order?

7. The findings of this Court on the above points are answered in;

- (1) Point No.1: Affirmative.
- (2) Point No.2: As per the final order for the following reasons.

REASONS

8. **POINT No.1**:- It is the contention of this accused that he has not committed any offences as alleged and he is innocent of the offences alleged.

(1) He is a permanent resident of Belagavi.

(2) He undertakes to abide by the conditions that may be imposed by this Court in case of his release on anticipatory bail and to appear before the Investigating Officer as and when needed.

9. On the other hand, it is the objections of the learned Public Prosecutor that the offences alleged are heinous in nature and if this accused is released on bail, there is every possibility of his hampering and tampering with prosecution witnesses and committing similar offences.

10. Admittedly, the case has been registered against this accused in Cr.No.40/2023 on the file of Women police, Belagavi for the offences punishable under Sections 498(A), 452, 427, 323, 504 and 506 of IPC.

11. It is also an admitted fact that the investigation is still pending and the offences though non-bailable, not punishable with death or life imprisonment and triable by a Magistrate. That apart, it is a settled position of law that bail is rule and rejection is an exception and pre-trial detention is nothing but pre-trial conviction.

12. Hence, to balance the individual liberty of the accused and also considering the apprehension of the prosecution, it appeared that it is just and proper to allow the present petition by imposing appropriate conditions on this accused. Accordingly, this point is answered in affirmative.

13. **POINT No.2:-** From the above discussions, this Court proceeds to pass the following order.

ORDER

The present petition filed by the petitioner/the accused under Section 438 of Cr.P.C., is hereby allowed.

Consequently, the petitioner/the accused is entitled to be released on bail in the event of his arrest in **Cr.No.40/2023** on the file of Women police, Belgavi for the offences punishable under Sections 498A, 452, 427, 323, 504 and 506 of IPC on his executing personal bond for **Rs.1,00,000/-** with a surety for the like sum subject to the following conditions.

(1) The petitioner/the accused shall move for regular bail before the jurisdictional Magistrate **within one month from today** and the jurisdictional Magistrate shall dispose of

such bail application in accordance with law without prejudiced by this order.

(2) The petitioner/the accused shall not tamper the prosecution evidence and shall not coerce or terrorize the prosecution witnesses.

(3) The petitioner/the accused shall appear before the Court on all hearing dates and shall co-operate with the investigation.

(4) Violation of any of the above conditions amounts to cancellation of the bail.

(Dictated to the Stenographer directly on computer, typed by her, thereafter, corrected and pronounced by me in the open Court on this the 8th day of August, 2023).

(SMT.K.KATHYAYANI),
V Addl. District & Sessions Judge,
Belagavi.