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**IN THE COURT OF I ADDL. DISTRICT AND SESSIONS
JUDGE AT TUMAKURU**

Dated this the 02nd day of November 2023

Present : Sri. RAGHAVENDRA GOWDA B.G.
B.A.L., LLB.,
I Addl. District and Sessions Judge,
Tumakuru.

Crl. Misc.Pet.No.1535/2023

Petitioner:

Manjunatha H.S.
S/o Siddagangaiah,
Aged about 39 years,
R/o Hebbathanahalli,
Old Railway Gate,
Mallasandra, Kasaba Hobli,
Tumakuru City.
(Accused in JC)
(By Sri H.Kemparajaiah, Advocate).

-versus-

Respondent :

State of Karnataka repled. By
Tumakuru Rural Police,
(Rep. By Public Prosecutor)

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ORDER ON PETITION FILED U/sec.439 of Cr.P.C.,

The petitioner has filed this petition under section 439 of Criminal Procedure Code seeking regular bail in Crime No.282/2023 for the offences punishable under section 302, 201 of Indian Penal Code on the file of respondent police.

2. The grounds urged in the petition in nutshell are that, the petitioner is innocent, law abiding citizen and had not committed the offences as alleged by the respondent and the respondent police foisted a false case against the petitioner. That, the complainant has lodged false complaint after lapse of 4 days with an intention to harass the petitioner and to

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get death benefits of deceased from Government department with collusion of others, who have join the hands with the complainant. That, there is no medical records showing the cause of death as alleged by the complainant in her complaint. That, the respondent police have registered the case against the petitioner as per the say of the complainant for the reasons best known to them. That, the petitioner hails from respectable family. That, the petitioner is a Class-III contractor and he is having financial support, he is not in a position to get any benefit from his wife. That, he is the permanent resident of Habbathanahalli, Mallasandra Hobli, Tumakuru taluk having landed property in the village. That, eh is not involved in any criminal

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activities and he is well educated person. That, he is having number of dependents and they are entirely depending upon the earnings of the petitionr only.That, since from the date of arrest, the petitioner is in judicial custody. If the petitioner is kept in JC, he is suffering from pre-imprisonment, without any commitment of offences. That, he is ready to offer substantial surety to the satisfaction of this Court and ready to abide by the terms and conditions to be imposed by this Court. Hence, the petitioner prays this Court to grant bail.

3. The learned public prosecutor has filed objections reiterating the averments made in the complaint. There is a prima-facie case that, the present petitioner who is arraigned as

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accused No.1 had committed the alleged offences. The investigation is still in progress. The investigating officer conducted the spot mahazar. The statement of some witnesses and documentary evidence are yet to be collected.

The Medical Officer has given his opinion that, “death is due to hemorrhage as a result of stab injury to chest”. That, the offences alleged against the accused is heinous in nature. The offence alleged under section 302 of Indian Penal Code is non-bailable and is punishable with life imprisonment or rigorous imprisonment for 10 years and fine. At this stage, if the accused/petitioner is released on bail, he may tamper with the prosecution evidence, abscond from the jurisdiction of the Court and cause

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hindrance to the fair trial of the case. Hence he prays this Court to reject the bail petition.

4. Heard the arguments of the learned public prosecutor and the learned counsel for the petitioner.

5. The points that arise for my consideration are :

1. Whether the petitioner has made out grounds to grant regular bail as provided under section 439 of Cr.P.C ?

2. What order?

6. My findings to the above points are as follows :

Point No.1: In the Negative.

Point No.2: As per final order for the following:

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REASONS

7. Point No.1: The gist of the accusation is that, on 04.10.2023 at 08.30 pm the complainant Hemalatha appeared before the respondent police and lodged the complaint stating that, her parents have two daughters. Vanishree is her sister. She was loving the petitioner/accused Manjunath resident of Kabbathanahalli, Tumakuru taluk since three years and both of them got married on 31.05.2020 at Narasimhaswamy temple, Nagasandra village, C.S.Pura Hobli, Gubbi taluk. The said marriage was performed by the complainant and her husband. After marriage, both of them residing in a rented house at

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Mallasandra village. Vanishree was working as a teacher in Government school at Mavinahalli, Gubbi taluk and she was suffering from failure of kidney. Some galata was going on in the family. The petitioner has not provided proper treatment to Vanishree as advised by the Medical Officer and postponing the same for one or the other reason. He promised Vanishree to give his kidney and on the guist of that promise he he obtained loan of Rs.5,00,000/- in the name of her sister. He utilized the said money for his personal use and thereby cheated his wife. On 30.09.2023, his friend Raju informed through phone that Vanishree got heart attack and is in serious condition. On 1.10.2023 she had been to see her sister, there Vanishree died. Further alleged

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that, the petitioner had illicit relationship with one Swetha and with an intention to get Government job due to death of his wife, the petitioner murdered Vanishree. Due to suspicion against the petitioner, she lodged complaint on 1.10.2023, the police registered the case U.D.R.No.45/2023 under section 274(c) of Cr.P.C., The petitioner obtained loan from the bank for renal changes of his wife but he has utilized the same for his personal use. His father got mind stroke after came to know about the said fact and he is taking treatment at Shivamogga hospital. The complainant has given her statement that, the accused. petitioner having illicit relationship with one Shwetha and Vanishree was working a a Govenrment teacher. The petitioner had

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intention that, If Vanishree died, he will get Government job on compensatory ground. With that intention, on 30.09.2023 during night hours he suffocated her with a pillow and feigned as heart attack. On the basis of the complaint, a case came to be registered against accused in Cr.No.282/2022 for the offence punishable under section 302, 201 of Indian Penal Code.

8. During the course of investigation, the respondent police have arrested accused and on interrogation, it prima-facie appears that, the accused was involved in the alleged offence. The present petitioner is arraigned as accused.

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9. The learned counsel for the petitioner contends that, the petitioner has not at all committed the alleged offence and there is no overt act attributed against him and he has been falsely implicated by the respondent police at the instance of persons who bear ill-will against him. On careful examination of the entire materials, there is no prima-facie evidence with regard to involvement of this petitioner. The ingredients of Sec.302 of IPC are not attracted against the petitioner. Hence, he prays this court to allow the petition.

10. The learned public prosecutor countering the said arguments contends that, the investigation is still in progress. There are

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prima-facie materials against the accused with regard to commission of murder of Vanishree. The offence alleged under section 302 IPC is heinous in nature. Hence prays this court to reject the bail petition.

11. On careful perusal of the records, it is evident that, The statement of eye witnesses is to be recorded. The materials seized were sent to FSL for chemical analysis and the same is yet to be received. The Medical Officer after conducting post-mortem has given opinion that, “Provisional opinion-Death is due to Asphyxia as a result of smothering”

12. It is contended by the learned public prosecutor that, there are prima-facie materials

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to indict accused for the offence of committing murder.

13. On careful examination of the records, this Court is of the considered opinion that the accusation against this petitioner is very serious and grave. The offence alleged is punishable with death or imprisonment for life and fine. The investigation is still in progress and the Investigating Officer is yet to collect some documentary evidence and to record the statement of witnesses. In-view of the said facts and circumstances, this Court is of the considered view that, this is not a fit case wherein the discretion can be exercised in favour of the petitioner to grant regular bail. Hence, the petition is devoid of merits and

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liable to be dismissed. Hence, Point No.1 is held in negative.

14. POINT No.2 : In view of my findings on point No.1, I proceed to pass the following :

ORDER

The bail petition filed by the petitioner under section 439 of Cr.P.C is hereby dismissed.

(Dictated to the Stenographer directly on the computer, computerized transcript revised by me and then pronounced by me in the open Court on this the 02nd day of November 2023.)

(RAGHAVENDRA GOWDA B.G.)
I ADDL. SESSIONS JUDGE,
TUMAKURU