

KABI010028892021



**IN THE COURT OF I ADDL.DISTRICT & SESSIONS JUDGE
AT BALLARI**

PRESENT:

**SRI. SADANANDA M.DODDAMANI, B.A., LL.B.,
I ADDITIONAL DISTRICT & SESSIONS JUDGE, BALLARI.**

DATED THIS 18th DAY OF JANUARY, 2022

Spl.Case.No:816/2021

**ACCUSED No.
1, 2 & 4:**

- 1.** Agasara Mallaiah, S/o.Eranna, 30 years, R/o Near Nagappa Katte, CMC colony, Belagal Road, Ballari. **(A-1)**
- 2.** Sourappa @ Suri, S/o. Late Sourappa, 31 years, Farmer, R/o d.No.1/64 near bus-stand, Muddanageri village, Alur Mandal, Kurnool Dist., A.P. **(A-2)**
- 3.** Ramajineyalu @ Ramajineyalu son of Nallareddy, 24 years, Auto driver, R/o 8th cross, Sathyavani Nagar, Kolagal road, Ballari. **(A-4)**

**(By Sri B.V.Basavaraj/ Sri V.M.P.,
Advocates for A-1 and 4)**

(By Sri S.N.B., Advocate for A-2)

//Vs.//

RESPONDENT/ The State by The Sub-Inspector of Police,
complainant : Women Police Station, Ballari.

(By Learned Public Prosecutor)

ORDERS ON BAIL APPLICATIONS
FILED u/S.439 CR.P.C.

1. The learned counsels for the accused Nos.1, 2 and 4 have filed the bail applications u/S.439 of Cr.P.C., seeking to release the accused Nos.1, 2 and 4 on bail in Cr.No.74/2021 of the complainant Women Police Station, Ballari, for the offences punishable u/Ss.364, 302, 201, 120B, 394 R/w Sec.34 of IPC and under Section 3(2)(V-a) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. In brief, the case of the prosecution is as under:

That the complainant – police have registered the man missing case in Cr.No.52/2021 on the basis of the complaint given by Smt.Sravani on 13.04.2021 stating that the mother of the complainant by name Smt.Jayamma and her younger sister by name Kum.Ramalakshmi were missing. It is further alleged that the second FIR is registered in Cr.No.74/2021 about commission of the offences punishable u/S.364 of IPC on the basis of the complaint given by Smt.Sravani on 07.06.2021. Based on the said complaint, accused No.1 was arrested by the complainant – police on 08.06.2021 and he said to have given voluntary statement stating that himself and the

accused No.2 have murdered Jayamma and Ramalakshmi and thereafter, the case has been registered for the offences alleged against them as stated above. It is further alleged that on 15.06.2021 the respondent – police took the accused Nos.1 and 2 to police custody and further recorded the further voluntary statement of the accused No.1. Based on his further voluntary statement, the accused Nos.3 and 4 were arrested on 15.06.2021. It is further alleged that since so many years the father of the complainant has left his mother and settled at Andhra Pradesh. The complainant had married one Anup Kumar about 18 years back and out of the said wed-lock, 2 children were born and she is residing at Bandihatti Ballari and her mother Jayamma and sister Ramalakshmi are residing together at Ramanjineya Nagar, Belagal Cross, C.B., Ballari and her younger sister Ramalakshmi is unmarried and she is doing finance business and her mother is attending house-hold work. It is further alleged that the mother and sister of the complainant used to visit religious places for 5 – 6 days and used to return back to home and also they used to visit the house of the complainant in order to see her children. It is further alleged that the mother of the complainant informed her that she will come to her house on Sunday 21.03.2021, but she did not turn up. On 25.03.2021 she called her mother on mobile, but mobile was switched off, so, she sent her elder son to her mother's house and he

informed that the door was locked. On 27.03.2021 at 7.00 a.m., the complainant and her husband went to her mother's house and door was locked and she thought that her mother and sister might have gone to religious places. On 29.03.2021 at 7.30 a.m., once again she and her husband went to her mother's house and enquired the neighbour Smt.Radha and she said that she has seen both her mother and sister on 22.03.2021 proceeding on the temple road infront of her house. She searched for her mother and sister, till 13.04.2021, they were not traced out, so, she lodged the missing complaint on 13.04.2021. It is further alleged that on 06.06.2021 one Venkatesh and Kumar, who happens to be known persons to her mother had come to her house, at that time, the complainant was informed them about the missing of her mother and sister. It is further alleged that both the above said persons told her that on 20.03.2021 at 2.30 p.m., they have witnessed both her mother and sister were proceeding in a white car near Belagal Cross, along with the accused No.1. It is further alleged that the accused No.1 was residing near the house of her mother and he was very much close and acquainted with the sister of the complainant and he used to borrow money from her sister and her sister told her that the accused No.1 had borrowed Rs.3 lakhs loan from her about 3 – 4 years back, but he has not returned the said amount and he was due for repayment. Therefore, she suspected the

accused No.1 might have kidnapped and might have done something to her mother and sister, so, she lodged complaint. Based on the second complaint, the complainant – Police registered the case against the accused No.1 in Cr.No.74/2021 u/S.364 of IPC and the accused No.1 was arrested and based on the voluntary statement of accused No.2 to 4 were arrested by the complainant police.

3. It is further alleged that on 15.06.2021 the complainant – police took the accused Nos.1 and 2 herein to police custody and during that time, the accused No.1 said to have given further voluntary statement stating that few days prior to the incident, he had conspired with accused Nos.2 to 4 near LLC Canal, near Kuvempu Nagara, Ballari and gave supari to accused Nos.2 to 4 for Rs.2 lakhs in order to kill the sister of the complainant by name Ramalakshmi. It is further alleged that in the first attempt, they failed to commit the murder of both the mother and sister of the complainant. It is further alleged that subsequently, the accused Nos.1, 2 and 4 took both the mother and sister of the complainant in the car near LLC Canal, Sirigeri Cross, at about 9.30 p.m., he assaulted the sister of the complainant with iron rod on her head and with the help of accused Nos.3 and 4, threw the dead body of Ramalakshmi into the canal and thereafter, the accused No.1 assaulted Jayamma with iron rod on her

head, when she became unconscious, he took 2 gold chains from her neck and threw the dead body into the canal with the help of accused No.2. So, based on the further voluntary statement of accused No.1, the accused Nos.1, 2 and 4 were arrested by the respondent – police and now they are in judicial custody.

4. It is contended by the accused Nos.1, 2 and 4 that they are innocent, law abiding and peace loving citizens and they have not committed any offences much-less the offences alleged against them. It is further contended that they have not committed any offences as alleged by the complainant and they have been falsely implicated in the present case, at the instance of the persons, who are not in good terms with them. It is further contended that the accused Nos.1, 2 and 4 never conspired with the accused No.3 to do away with the life of the deceased persons. It is further contended that there are no witnesses to the prosecution case to connect the accused persons herein with the crime. It is further contended that the allegations levelled by the de-facto complainant are false and denied, the entire complaint is created one, to incriminate the accused Nos.1, 2 and 4. It is further contended that one Venkatesh and Kumar both are known persons to the complainant told her that on 20.03.2021 at 2.30 p.m., her mother and sister were went in white car along with accused No.1

and on suspicious upon the accused No.1, the complainant made false allegations to harass the accused persons. It is further contended by the accused No.4 that he is totally stranger to the accused Nos.1 to 3 and he had no motive or intention to do away with the life of Jayamma and Ramalakshmi. It is further contended that the very voluntary statement given by the accused No.1 on 8.6.2021 would shows that there is no involvement of the the accused No.4. It is further contended that based on the second alleged further voluntary statement said to have given by accused No.1 on 15.6.2021, the accused No.4 was arrested by the complainant -police. If at all the accused No.4 had participated in the alleged incident, the accused No.1 would have stated in his first voluntary statement about the involvement of the accused No.4. The second further voluntary statement implicating the accused No.4 does not hold any water and no credence can be attached to it. It is further contended that the seizure of alleged auto bearing Reg.No.KA-34/2957 do not belong to the accused No.4, the said seizure is false and concocted. It is further contended that there is inordinate delay in lodging the complaint, but no explanation has been given by the prosecution for the same. It is further contended that the dead bodies of the deceased Jayamma and Ramalakshmi are not traced out. It is further contended that no weapons alleged to be used for the commission of the offences are

seized. It is further contended that the accused No.1, 2 and 4 are not required for any further investigation and no purpose will be served by keeping them behind the bars. It is further contended that the accused Nos.1, 2 and 4 are ready to furnish surety and also ready to abide by the conditions imposed by the court in the event of their release on bail etc., In view of the above contention and other contentions taken in the bail applications, it is prayed to enlarge the accused Nos.1, 2 and 4 on bail.

5. The learned Spl.P.P., has filed detailed objections to the bail applications filed by the accused Nos.1, 2 and 4 stating the facts of the case and contending that, the I.O after completing the investigation has filed charge sheet against the accused persons. It is further contended that, the charge sheet materials prima-facie would disclose that, the accused persons herein along with other accused have committed the double murder and which is very brutal in nature. It is further contended that, the I.O has recorded the voluntary statements of accused persons and also recorded the statement of eyewitness by name Rudrappa and Hanumanthappa. It is further contended that, the I.O has also recorded the statement of the material witnesses to the incident in question. It is further contended

that, at the time of investigation the complainant police have searched the house of the deceased persons at that time they found promissory note of Rs.20,000/-, it would shows that the accused persons herein along with other accused have committed the murder of sister and mother of the complainant with regard to money matter. The perusal of Para No.3 to 6 of the objection filed by the prosecution would shows that, wherein the prosecution has stated the role of each accused persons in committing the murder of Ramalakshmi and Jayamma. It is further contended that, the trial is not yet commenced, if at this stage, the accused persons were enlarged on bail, they may threaten the prosecution witnesses from disclosing the true facts relating to the case in hand, destroy the evidence and also flee away from justice etc,. In view of the above contention and other contentions taken in the objection to the bail applications, prays to dismiss the bail applications filed by the accused Nos.1, 2 and 4.

6. After hearing the arguments, the points raised for determination are, as under:

- 1) Whether the bail applications filed by the accused Nos.1, 2 and 4 U/sec.439 of Cr.P.C are deserves to be allowed?
- 2) What Order?

7. My findings to the above said points are as under:

Point No.1 : In Negative

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

REASONS

8. **Point No.1:-** The learned counsels representing the accused Nos.1, 2 and 4 during the course of their arguments mainly contended that at the first instance, the complainant -police have registered the man missing case in Cr.No.52/2021 and subsequently, the second FIR is registered in Cr.No.74/2021 for the offences punishable 364, 302, 201, 120B, 394 R/w Sec.34 of IPC and under Section 3(2)(V-a) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. It is further contended that based on the second complaint, the accused No.1 was arrested. It is further contended that subsequently, the complainant -police have also arrested accused No.2 on the basis of the voluntary statement given by the accused No.1. It is further contended that the complainant -police took accused Nos.1 and 2 to their custody and during the said period, it is alleged that the accused No.1 has given further voluntary statement before the police and at that time, he has disclosed that the

accused Nos.3 and 4 were also involved in the commission of the murder of the mother and sister of the complainant. They further contended that the very contents of the complaint would shows that the mother and sister of the complainant used to go for religious places for 5 – 6 days and then they returned back to their home. It is further contended by the complainant that her mother told her that on 21.03.2021 she will come to her house, but she did not come, as such, she sent her elder son to her mother's house and she came to know through him that the door was locked and subsequently, she herself and her husband went to the house of her mother and they also noticed that the door was locked. They further contended that when the complainant enquired with the neighbour of her mother's house, she came to know that on 22.03.2021 the mother and sister of the complainant were proceeding on the temple road infront of her house, though they searched for them, but they could not able to trace them. They further contended that it is the contention of the prosecution that on 6.6.2021 one Venkatesh and Kumar told the complainant that they saw her mother and sister were proceeding in white car along with the accused No.1. So, what he contended that based on the information given by the said 2 persons, a case was registered against the accused No.1. The complainant contended that she was told by her sister Ramalakshmi that accused No.1 had borrowed Rs.3 lakhs and in spite

of request made by her, he is not ready to repay the loan amount. So, by suspecting that the accused No.1 did something to her mother and sister, she lodged complaint. They further contended that the very records would show that on the basis of second voluntary statement said to have given by the accused No.1, accused Nos.3 and 4 were arrested. They further contended that the prosecution claims that the accused No.1 has given supari to accused Nos.3 and 4 to commit the murder of the mother and sister of the complainant. It is further contended that on 21.03.2021 the accused Nos.1 to 4 tried to commit the murder the mother and sister of the complainant, but they were not succeeded. Subsequently, the accused Nos.1 and 2 took both the deceased persons in a car near LLC canal, Sirigeri, at that place, accused No.1 assaulted Ramalaksmi i.e., the sister of the complainant with iron rod on her head and with the help of accused Nos.3 and 4, they threw the dead body of the deceased Ramalakshmi into the canal and thereafter, the accused No.1 assaulted Jayamma with iron rod on her head and when she became unconscious, he took 2 gold chain from her neck and threw her dead body into the canal with the help of accused No.2. They further contended that nothing has been recovered from the possession of the accused persons and even the alleged weapons used by the accused persons to commit the murder of the mother and sister of the complainant, have not at all seized by the

police. They further contended that till this date, the dead body of the mother and sister of the complainant not traced by the complainant -police. They further contended that the accused Nos.1, 2 and 4 had not at all conspired with the other accused and discussed to do away with the life of the mother and sister of the complainant. They further contended that the averments in the bail applications would shows that it is alleged against the accused No.2 that he assisted the accused No.1 while he was throwing the dead body of the deceased mother and sister of the complainant into the canal. But no overt act is attributed against the accused No.2. They further contended that the accused Nos.1 and 2 were arrested on 8.6.2021 and the accused No.3 and 4 were arrested on 15.06.2021 and till this day, they are in judicial custody. They further contended that the presence of the accused Nos.1, 2 and 4 is not required for any other purpose and the materials on record at this stage does not disclose that the accused Nos.1, 2 and 4 have involved in the commission of alleged murder of the mother and sister of the complainant. So, in view of their above arguments they urged to release the accused Nos.1, 2 and 4 on bail.

9. The learned P.P., during the course of his arguments contended that the IO by completing investigation has filed charge sheet against the accused persons. The charge sheet materials prima-

facie discloses that the accused Nos.1, 2 and 4 along with the accused No.3 conspired to do away the life of the mother and sister of the complainant. Since the sister of the complainant was forcing the accused No.1 to repay the loan amount given to him, as such, being fed up with the said attitude of the sister of the complainant, all the accused persons have conspired to do away with the life of the mother and sister of the complainant. He further contended that in fact, the deceased sister of the complainant informed the complainant about the factum of the accused No.1 obtaining loan of Rs.3 lakhs, but he has not ready to repay the said amount. He further contended that the charge sheet materials would shows that one Venkatesh and Kumar informed the complainant that on 20.03.2021 the mother and sister of the complainant were proceeding in white car along with the accused No.1. So, what he contended that the said aspect itself would goes to show that the accused No.1 has conspired with the accused Nos.2 to 4 to do away with the life of the mother and sister of the complainant. He further contended that the materials on record would shows that the accused Nos.1, 2 and 4 along with accused No.3 have assaulted the mother and sister of the complainant with auto starter iron rod and all of them threw the dead bodies of the mother and sister of the complainant into the LLC canal. So, what he contended that the accused Nos.1, 2 and 4 along with other accused person have

committed double murder and the investigation conducted by the I.O., would shows that strong materials are available on record to show that they have committed the murder of the mother and sister of the complainant. He further contended that the trial is not yet commenced and at this stage, if the accused persons were enlarged on bail, definitely they would threaten the prosecution witnesses, destroy the evidence and also flee away from justice, as such, he strongly objected for granting bail to the accused Nos.1, 2 and 4.

10. In the light of the rival contentions, I have gone through the records. Admittedly, the complainant -police have registered the case against the accused Nos.1, 2 and 4 herein and accused No.3 for the offences punishable u/Ss.364, 302, 201, 120B, 394 R/w Sec.34 of IPC and under Section 3(2)(V-a) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. It is the contention of the prosecution that the accused No.1 had taken loan of Rs.3 lakhs from the sister of the complainant. In fact, the said fact has been informed by the deceased Ramalakshmi to the complainant. The prosecution contended that in spite of repeated requests made by the sister of the complainant to accused No.1 to repay the said loan amount, he failed to heed the request made by her. It is the further case of the prosecution that being fed up with the said attitude of the sister of the

complainant, the accused No.1 has conspired with the accused Nos.2 to 4 to do away with the life of the mother and sister of the complainant. The records at this stage would show that the complainant was informed by one Venkatesh and Kumar that on 20.03.2021 at 2.30 p.m., they saw her sister and mother were going in a white car along with the accused No.1. So, the complainant lodged complaint against the accused No.1 suspecting that he might have done something to her mother and sister. Based on the said complaint, the accused No.1 was arrested. The records would show that the I.O., has recorded the voluntary and further voluntary statement of accused No.1. In the further voluntary statement of accused No.1, he disclosed that he himself along with accused Nos.2 to 4 have committed the murder of the mother and sister of the complainant. The prosecution contended that the accused Nos.1, 2 and 4 and accused No.3 took the mother and sister of the complainant near LLC Canal, Sirigeri Cross and wherein, they assaulted them with auto starter iron rod on the head of the mother and sister of the complainant and subsequently, all of them threw the dead bodies into the LLC Canal.

11. The prosecution has specifically contended that the I.O., has recovered the auto belongs to the accused No.4 So also, the

learned P.P., has produced the C.D and the IO by completing the investigation has filed charge sheet against the accused persons. The perusal of the charge sheet materials and the CD, at this stage prima-facie discloses that there are strong materials available on record to show that the accused Nos.1, 2 and 4 herein along with the accused No.3 have committed the brutal murder of the mother and sister of the complainant. The learned counsels for the accused Nos.1, 2 and 4 during the course of their arguments contended that at the first instance, in the alleged first voluntary statement, the accused No.1 has not disclosed the names of the accused Nos.2 to 4. It is further contended that in the second alleged voluntary statement it was claimed by the prosecution that the accused No.1 has disclosed the name of the accused Nos.2 to 4. So, what they contended that if at all the accused Nos.1, 2 and 4 along with the accused No.3 have participated in the conspiracy to do away with the life of the mother and sister of the complainant, the accused No.1 definitely would have disclosed their names at the time of alleged first voluntary statement. So far as the said contention of the learned counsels representing the accused persons, it can be said that the said circumstance is not a ground to disbelieve the case set up by the prosecution at this stage. Apart from that, there is no need to make elaborate discussion about the merits of the case at this stage, while considering the bail

applications. The contention of the learned counsels representing the the accused Nos.1, 2 and 4 is that there was delay in lodging the complaint and the auto seized by the I.O., during the course of investigation, is not belongs to the accused No.4 are concerned, it can be said that even those circumstances are also not the grounds to disbelieve the case of the prosecution at this stage. As it is already stated above the charge sheet materials prima-facie discloses that the strong materials are available on record and the IO has recorded the statements of the main and materials witnesses to the incident in question. Apart from that, as it is already stated above, the prosecution alleged that the accused Nos.1, 2 and 4 along with the accused No.3 have committed the double murder, which is very heinous in nature. Admittedly, the accused No.1 and 2 herein earlier have filed bail petitions in CrI.Misc.No.443/2021, which was came to be dismissed on merits by order dated 24.08.2021 and they have also filed CrI.Misc.No.444/2021 and CrI.Misc.468/2021 they also came to be dismissed on merits by order dated 24.08.2021 and 02.12.2021 respectively. Now again the accused No.1, 2 and 4 have come up with the present bail applications on the ground that the IO by completing the investigation has filed charge sheet. Mere filing of the charge sheet is not a conclusive proof, on that score it cannot be said that the accused persons herein are made out ground to grant bail to them. As

it is already stated above the strong materials are available on record to show that the accused No.1, 2 and 4 along with the accused No.3 have committed the brutal murder of 2 ladies, which is very heinous in nature. The perusal of the records would shows that without there being any changed circumstances again the accused No.1, 2 and 4 have come up with the present bail applications only on the ground that the IO by completing the investigation has filed charge sheet. In this type of heinous offence that too committing of brutal murder of 2 ladies, if the bail is granted to the accused persons, definitely, it would send wrong signal to the society. So, by considering the over all facts and circumstances of the case, this court is of the opinion, there is no merit in the bail applications filed by the accused No.1, 2 and 4 and the same are deserves to be dismissed and accordingly, the Point No.1 for consideration is answered in the **negative**.

12. Point No.2: In-view of my findings to point No.1, I proceed to pass the following:

ORDER

The bail applications filed by the accused Nos.1, 2 and 4 u/S.439 of Cr.P.C. are hereby dismissed.

(Dictated to the Stenographer, transcribed and typed by her, corrected by me and then pronounced in the open Court on this **18th Day of January, 2022**)

(SADANANDA M.DODDAMANI)
I ADDL.DISTRICT & SPECIAL JUDGE,
BALLARI.