

KAHS010003192022



Presented on : 13-01-2022

Registered on : 13-01-2022

Decided on : --

Duration :

**BEFORE THE III ADDITIONAL DISTRICT AND
SESSIONS JUDGE AT HASSAN**

Present: Smt.Roopa Ramarao Kulkarni
B.Com., L.L.B.,
III Addl. District & Sessions
Judge, Hassan.

Dated this the 23rd day of March, 2022

SC/8/2022

Complainant :: State by
Holenarasipura Town Police
Station
(Rep. by learned P.P.)

V/S

Accused no2 : Rizwan Sharif S/o Babu,
Aged about 28 years,
R/at: Holenarasipura Town,
Lashkar Mohalla,
Holenarasipura Taluk.

**(Rep. by Sri.A.C.K.,
Advocate)**

: ORDERS ON BAIL APPLICATION :

Accused no.2 is in J.C. He has filed this petition U/Sec.439 Cr.P.C. for bail.

2. The Respondent police have laid the charge sheet against the present accused and others for the offence punishable U/Sec.306 r-w 34 of IPC.

3. The Accused has stated that, he is innocent of the alleged offence and has not committed any such offence and even though he has not committed any offence, false case has been foisted against him only to harass him. It is submitted that accused is hailing from respectable family having agricultural background and he is the sole bread earner of the family and has no criminal antecedents in any manner. It is also submitted that accused is the permanent resident of the above said address having movable and immovable properties and he is ready to abide by any conditions to be imposed by this court. In view of these, the accused prays for allowing the application.

4. The prosecution has filed detailed objections stating that, accused has committed serious offence. The learned

Public Prosecutor by relying upon the decisions of Hon'ble Supreme Court in Criminal Appeal no.297 of 2001 between The State of Maharashtra V/s Ritesh, another decision in Criminal Appeal no.1248 of 2005 in the case of State Through CBI v/s Amaramani Tripathi and another decision in Criminal Appeal no.601 of 2017 in the case of The State of Karnataka V/s Virupakshappa Gowda and another, has submitted that mere filing of charge sheet is not a ground to release the accused on bail and the nature and seriousness of the offences has to be looked into while granting bail. It is also submitted that if the accused is released on bail, he may abscond from the jurisdiction of the Court and may threaten the prosecution witnesses in giving evidence and may flee away from justice and as such, he is not entitled for bail. Hence, prays for rejection of bail.

5. Heard the arguments of both side.

6. The points that arise for consideration are:

1. Whether the petitioner/Accused has made out grounds for Bail for the reasons stated in the petition ?

2. What order?

7. My answer to the above Point No.1 in the **'Affirmative'** for the following:

:: REASONS ::**Point No.1 :-**

8. The case of the prosecution is that accused no.2's daughter accused no.5 Nagma Khan's marriage was got arranged with Zabir Khan, son of C.W.7 Ghouse Khan, but the said marriage was not taken place as there was galata took place between the two families. After that, Uzma Khan daughter of C.W.7 Ghouse Khan has left the house and again returned to her house and with regard to the said incident, when C.W.4 along with his family members were at home or when they were outside, accused no.1 to 7 used to harass them mentally that they had kept their daughter who had left home and returned and instigated them to commit suicide by consuming poison and with the said instigation and harassment given by the accused persons, on 12.06.2015 at about 6.30 pm., C.W.2, C.W.3 and deceased PijaKhanam have consumed poison by mixing with Kheer and they are taken to Holenarasipura Government hospital for treatment and on the same day at about 7.30 pm., Pizakhanam succumbed to death without responding to the treatment and C.W.2 and C.W.3 survived. Accordingly, case was registered against the accused and other persons and after investigation, charge sheet has been filed by the respondent police for the offence punishable

under section 306 r/w 34 of IPC and accused was remanded to judicial custody.

9. The learned counsel for accused has submitted that the accused no.2 is no way connected to the present case and even though he has not committed any offences as alleged in the charge sheet, he has been falsely implicated in the case and as he is in judicial custody since 17.01.2022, it is prayed to allow the petition.

10. On the other hand, the learned PP has submitted that the accused has committed heinous offence which is punishable with imprisonment of 10 years and fine and if he is released on bail, he may threaten the complainant and prosecution witnesses in giving evidence and he may also abscond from the jurisdiction of the court. So, it is prayed to dismiss the bail petition filed by the accused.

11. On perusal of the records, it appears that on the instigation given by the accused no.1 to 7, C.W.2, C.W.3 along with deceased Pija Khanum consumed poison by mixing with kheer, but unfortunately, Pija Khanum died and C.w.2 and C.W.3 survived. On perusal of records, it appears that accused is in judicial custody since 2 months. Moreover, now investigation is completed and charge sheet is already filed

and further detention of accused in judicial custody will jeopardize the life of accused and so looking to the longevity of accused in judicial custody and looking to the nature of offences, it is proper to release the Accused on bail by imposing necessary conditions. Accordingly, point no.1 is answered in the Affirmative.

12. Point No.2:- For the discussions made on point no.1, following order is passed:

ORDER

Bail Petition filed for Accused no.2 under Section.439 of Cr.P.C., is hereby allowed.

Accused no.2 by name Rizwan Sharif S/o Babu is enlarged on bail, on executing personal bond for Rs.50,000/- with one local surety for likesum, subject to following conditions:

1. Accused no.2 shall not threaten or try to coerce the complainant or witnesses.
2. Accused no.2 shall appear before the court on all dates of hearing without fail.

3. Accused no.2 shall not leave the jurisdiction of the court without prior permission.

(Dictated to Stenographer directly on computer, typed by her, and after corrections, pronounced in the open Court on this the 23rd day of March, 2022)

(Roopa Ramarao Kulkarni)
III Addl. Dist. & Sessions
Judge, Hassan.