

KAHS010075472023



**IN THE COURT OF ADDL. DISTRICT & SESSIONS &
SPL JUDGE, AT HASSAN**

PRESENT

SRI. K. C. SADANANDSWAMY

B.Com., LL.M,

Addl. District & Sessions &

Spl. Judge, Hassan.

DATED THIS 22nd DAY OF JANUARY 2024.

Spl. Case No.756/2023.

Accused No.4

Sanju D S/o Devarajaiah (Devaraju),
Aged 18 years 8 months,
R/o Adhihalli village,
Bageshpura post, Gandasi hobli,
Arasikere taluk, Hassan district.

(By Sri M.J.P., Advocate)

//Vs.//

Complainant

The State of Karnataka,
Through PSI, Hassan Extension police station
(Rep.by Spl. Public Prosecutor Hassan)

Victim

Dinesh S/o Javaraiah,
R/o Mandikere village,
Kasaba hobli,
Arakalgud taluk, Hassan district.

**ORDER ON BAIL PETITION FILED U/SEC.439
OF CR.P.C., BY ACCUSED NO.4**

The accused No.4 has filed this bail petition under section 439 of Cr.P.C. for grant of regular bail order in this case.

2. It is mentioned in bail petition that police have registered criminal case against this accused and others in crime No.248/2023 for offences punishable U/s 302 r/w section 34 of IPC and Sections 3(2)(v) of SC/ST Amendment Act 2015. He is in judicial custody from 19-10-2023. The police have created statements of witnesses. Accused No.4 is not involved in this crime. He has been falsely implicated in this case. His parents have been suffering from old aged illness. He is ready to abide by any conditions to be imposed by this court. It is prayed that bail petition is to be allowed with conditions.

3. Learned Spl. Public Prosecutor has filed objection to bail petitions contending that bail petition is not tenable under law. He has reiterated contents of complaint, FIR and charge sheet materials. The evidence collected by IO through charge sheet materials has reasonably believe that this accused and others have committed murder of deceased. The death of deceased was occurred due to hemorrhagic shock as a result of multiple

blunt injuries sustained as per PM report. The offences alleged are serious, grave in nature and punishable with death or life imprisonment and fine. If he is released on bail, he may tamper prosecution witnesses. He may destroy prosecution evidence. He may abscond from jurisdiction of this court. There are no valid grounds to grant bail to this accused. It is prayed that bail petition is to be dismissed.

4. The complainant has appeared after receipt of notice of bail petition and filed objection to bail petition contending that this accused and others have committed murder of deceased brutally. If he is released on bail, he may threat complainant and prosecution witnesses. He is not entitled for bail. It is prayed that bail petition is to be dismissed.

5. This court has heard arguments on both sides and perused records carefully.

6. The following points are arisen for my consideration for decision on bail petition as under;

- 1) **Whether petitioner/accused No.4 has made out valid grounds for grant of regular bail order under section 439 of Cr.P.C. in this case?**
- 2) **What order ?**

7. My answer to above points are as under;

Point No.1:- In affirmative

**Point No.3:- As per final order
for following;**

:REASONS:

8. **POINT NO.1:-** I have carefully gone through contents of bail petition, both objections, complaint, FIR, charge sheet materials and police records. Hassan Extension police have registered criminal case against this petitioner and others in crime No.348/2023 for offences punishable U/s 302 r/w Section 34 of IPC and under section 3(2)(v) of SC/ST (PA) Amendment Bill 2015 based on complaint lodged by complainant. IO-DySP of Hassan-Sub Division has submitted charge sheet against this accused and others for offences punishable U/s 302 r/w Section 34 of IPC and Section 3(2)(v) of SC/ST (PA) Amendment Act 2015.

9. It is alleged in complaint, FIR, charge sheet materials and others that on 17-10-2023 at about 10-30 p.m., near house of CW-2 at B. Katihalli village, accused No.1 has assaulted with hands to Kantharaju. Kantharaju has told to accused No.1 and his friends that they will not do anything upon him. First accused has called to accused No.3 over phone on same day at about 22-44 p.m. Accused No.2 to 4 have reached spot. Accused No.1 and 3 have

assaulted with banana plant stem upon Kantharaju. CW-2 and 3 have witnessed incident. CW-3 has questioned said act of accused persons upon Kantharaju. They have pulled Kantharaju on cement floor in front of house of CW-3. Accused persons have assaulted with banana plant stem and repiece patti. At about 11-15 p.m., accused No.2 to 4 have also pulled Kantharaju and assaulted with brick pieces upon head of Kantharaju, who fall on road near commercial complex, beside Ranganatha Tyre shop. Accused persons know that deceased Kantharaju is a member of scheduled caste. Accused persons have committed offences. Therefore, IO has filed charge sheet against accused persons, after detailed investigation.

10. By considering entire contents of complaint, FIR, police records, charge sheet materials, statements of witnesses and other records, there is no specific allegations made in statements of CW-2 and CW-3 (who are allegedly to be eyewitnesses) against accused No.2 to 4 for commission of assault with help of banana plant stem, repiece patti and brick piece upon Kantharaju. The statements of CW-2-Bhagya and CW-3-Nanjamma dated 20-10-2023 clearly revealed that accused No.1 has assaulted with banana plant stem upon Kantharaju. Accused No.2 to 4 have pulled Kantharaju on cement road.

There is no specific allegations of assault by accused No.2 to 4 upon Kantharaju with help of dangerous weapon in statements of CW-2- Bhagya and CW-3-Nanjamma.

11. It is mentioned in statement of Naveen @ Devaraju dated 31-10-2023 that these accused persons and other boys have assaulted with banana plant stem and wooden piece upon Kantharaju. There is a long delay in recording statement of Naveen @ Devaraju dated 31-10-2023 from 20-10-2023. The statements of Bhagya, Nanjamma and Devaraju are materially varied and contradicted each other on prima-facie. Admittedly, complainant is not eyewitness for incident.

12. PM report of deceased Kantharaju revealed that he has suffered 20 lacerations, abrasions and contusions on different parts of body. Death of deceased was occurred due to hemorrhagic shock as a result of multiple blunt injuries sustained. Final opinion dated 07-11-2023 revealed that deceased has consumed ethyl alcohol prior to death.

13. I have gone through decision cited by learned counsel for accused No.4 reported in copy of order in **Criminal Petition No.8804/2022 dated 28-09-2022 (Sri Ramaiah Vs State of Karnataka, Badavanahalli police station)**

14. I do agreed principle laid down in said decision in respect of grant of regular bail order. The principle laid down in the said decision is rightly applicable to case in hand and for contention of learned counsel for accused No.4.

15. It is held in decision reported in **2022(5) KCCR SN 62 : 2022 (5) Kar. L.J. 464 (Anthony Singh Vs State of Karnataka by Kothanur police, Bangalore)**. Section 439 - Bail- offences punishable under Section 302 read with section 34 IPC – Eye witness narrating the while incident which took place out of a quarrel between deceased and accused – Complainant not a eye-witness – No other eyewitnesses to incident – Accused in custody after incident – Investigation completed by now – Stringent conditions imposed – Bail granted. petition allowed.

16. The principle laid down in said decision is rightly applicable to case in hand.

17. Investigation is completed. Charge sheet is filed. Accused No.4 is not further required for custodial trial. No useful purpose will be served by keeping this accused behind bar in further. Maximum time will be consumed to complete trial of this case. Some stringent conditions are to be imposed to meet out objections raised by learned SPP for state and complainant. This court has exercising discretion for grant of regular bail to this accused person. It is a fit

case to grant bail with conditions in favour of this accused person. Whatever observation made in above paras is restricted to decision on bail petition only. I have constrained to answer point No.1 in affirmative.

18. **POINT NO.2:-** In result, I proceed to pass following;

ORDER

This bail petition filed under section 439 of Cr.P.C., by accused No.4 is hereby allowed with conditions.

CONDITIONS

- (1). Accused No.4 is enlarged on regular bail order on execution of personal bond and two surety bonds for Rs.2,00,000/- each.
- (2). He shall not threat and tamper prosecution witnesses.
- (3). He shall attend court regularly on all hearing date.

(Dictated to Stenographer, transcript corrected and signed and then pronounced by me in open court on 22nd day of January 2024)

**(SRI. K. C. SADANANDSWAMY)
ADDL.DISTRICT AND SESSIONS &
SPL. JUDGE, HASSAN.**

(order pronounced in the open court vide separate order)

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**ADDL.DISTRICT AND SESSIONS &
SPL. JUDGE, HASSAN.**

