

KAKL010006652023



**IN THE COURT OF II ADDITIONAL DISTRICT AND
SESSIONS JUDGE AT KOLAR**

DATED 13th DAY OF JUNE 2023

PRESENT

Sri. H. DEVARAJU, B.A., LL.B.,
II Additional District & Sessions Judge,
Kolar.

Spl. S.C. IPC and SC & ST 6/2023

COMPLAINANT : **State of Karnataka,**
R/by Deputy Superintendent of Police,
Kolar Sub-Division, Kolar.

(Malur Police Station)

(Reptd. by **Smt. Nirmala**,
Public Prosecutor)

V/S

ACCUSED **Smt. Chaithra P. and four others**

4) Sri. Chalapathi,
S/o Venkataravanappa,
Aged about 45 years,
R/at Chambe Village,
Tekal Hobli, Malur Taluk.

(A4 by Sri. Shivarajkumar T.V - Adv.,)

ORDERS ON BAIL APPLICATION FILED BY THE
ACCUSED NO.4

Accused No.4 has filed this bail application under Section 439 Cr.P.C. through his counsel seeking his release on bail in this case for the offences punishable under Section 302, 201 and 109 read with 149 of IPC and Section 3(2)(5) of SC/ST (POA) Act.

2) The accused No.4 in his bail application has contended that he is innocent and law abiding citizen and he has not committed any of the offences and he is having deep roots in the society. He is in judicial custody since 3 months 10 days i.e., from 05-12-2022. It is further contended that he is having movable and immovable properties in his village. It is further contended that he never committed or involved in the alleged offences at any point of time. It is further contended that he being only male member to his aged parents and there are no one to look after them. If regular bail is not granted, he will be put to hardship and injustice. Further it is contended that, he will be abide by any of the conditions that may be imposed by this court. Accordingly, he has sought to grant regular bail.

3) The learned Public Prosecutor has filed statement of objection by contending that the alleged offences are heinous in nature and they are punishable with death or life imprisonment and with fine. The materials of this case prima facie reveals that the accused

No.1 was having illicit relationship with accused No.4 Chalapathi, for which reason there were quarrels between accused No.1 and deceased Anand @ Anil and hence the accused No.1 and 4 hatched a plan to kill the deceased. Therefore, the accused Nos.1 and 4 had paid supari of Rs.1,00,000/- to accused Nos.2 and 3 and thereby they committed the murder of deceased. It is further contended that the Investigating Officer after completion of investigation has filed charge sheet against accused Nos.1 to 5. At this stage, if the accused No.4 is granted regular bail, being politically and financially powerful, there are every chance of him absconding, tampering the prosecution witnesses and threatening the complainant and evading the trial. Thus she sought for rejection of bail application.

4) On consideration of the facts and circumstances of this case under available materials and proposition of law, the following point that arise for my consideration is:

Whether the Accused No.4 has made out sufficient grounds for admitting him to bail?

5) I have heard the arguments of learned Public Prosecutor and learned counsel for accused No.4.

6) On consideration of the facts and circumstances of this case under available materials and proposition of law, I answered above point in the **negative** for the following:

REASONS

7) POINT NO.1 :- On perusal of the records, it reveals that the criminal law was set into motion on the basis of complaint filed by one Sri. Abhishek on 03.12.2022 by contending that at about 2:00 p.m., on account of 'Hanuman Jayanthi' festival, he was cleaning the premises of Sri. Gundanjaneya temple in his village and at 2:30 p.m., when he went to attend nature call, he saw a dead body floating in the pond water situated behind the temple, which was in decomposed state and most of the face portion was eaten by worms. Immediately he had given the first information statement to the Nandagudii police station informing the said fact and the police have visited the spot and dead body was taken out from the water. It is further contended that the deceased was wearing blue jeans pant and black coloured underwear and a stone was tied to his stomach with drip pipe and tattoo 'Prajwal P Prithse' was found on his left hand, but unable to find out his identity on seeing the face. Therefore the police suspected that somebody might have dumped the dead body in the pond after committing murder with an intention to screening the evidence. On the basis of this complaint, FIR came to be registered against the unknown persons for the above said offences and after completion of investigation the charge sheet has been filed for the above said offences against accused Nos.1 to 5.

8) The contents of the charge sheet is that the name of the deceased was found as Anand @ Anil of Chambe Village, Malur

Taluk and he had a wife by name Chaithra i.e., accused No.1. It is further contended that the accused No.1 was having illegal intimacy with one Chalapathi the accused No.4. The deceased was obstructing the relationship of accused Nos.1 and 4 and hence in order to kill the deceased, the accused Nos.1 and 4 had paid supari of Rs.1,00,000/- to accused Nos.2 and 3. It is further contended that near Balaji Talkies, Malur the accused Nos.2 and 3 took deceased in a two wheeler vehicle bearing Reg. No. KA-03/JX-8365 in order to get job to deceased and went towards Masthi - D.N. Doddi Road and had purchased three power cool beer bottles and one imperial blue hot drinks in wine shop and went to the Eucalyptus grove at Kudiyanur belongs to CW-19 where accused Nos.2 and 3 forcible made deceased Anand to consume alcohol and thereafter at about 5.30 p.m. accused Nos.2 and 3 in order to commit murder of deceased, had assaulted on the head of deceased with beer bottles and the accused No.3 stabbed to the neck of deceased with piece of beer bottle and committed murder. It is further contended that accused No.2 had called his relative the accused No.5 to the spot and accordingly the accused No.5 came to the spot with his Bolero Pick Up vehicle bearing Reg. No.KA-53/AA-5026 and then they packed the dead body with gunny bag and thereafter they went near Government Quarry situated in Sy.No.58 at Beemakanahalli Village, behind Gundanjaneya Swamy Temple, Hosakote taluk in the said Bolero Pick Up vehicle and in order to screen the offence they tied the stone to the stomach of dead body with drip pipe and thrown the

same to the water. It is further contended that the accused No.2 in order to show the alleged murder to the accused No.1, had clicked the photographs through his mobile.

9) As it is revealed from the charge sheet, on the basis of the reliable evidence of the witnesses, the accused Nos.1 to 4 were apprehended and subjected them for investigation. The charge sheet is containing the statement of witnesses, F.I.R. spot mahazar, Notices, rough sketch, inquest report, postmortem report, further statement of complainant and acknowledgment with respect to sending of articles for examination to FSL.

10) During the course of arguments, defence counsel has argued that the entire case is depending upon the circumstantial evidence and there are no eye witnesses and also the circumstantial evidence are weak piece of evidence. Therefore, for the reasons stated in the bail petition this accused is entitled for bail. Further he has argued that if the bail is not granted, this accused will be put to great hardship and injustice. Thus, the defence counsel has argued to grant bail by allowing this application.

11) Per contra the learned Public Prosecutor has opposed the arguments of defence counsel as untenable to consider at this stage. Further she has argued that there are prima facie materials to constitute the offence punishable under Sections 302 and 201 of I.P.C against the accused and it is the brutal murder involved in this case. There are strong circumstantial witnesses and FSL report is awaiting to know the final reasons and the trial is due for

recording of the complainant and all other witnesses. Therefore, if the bail is granted there are every chances of tampering the prosecution witnesses. Further she has argued that the material evidence collected by the Investigation Officer prima facie shows that it is the accused No.4 who got entrusted the task of committing murder of deceased at the instance of accused No.1 due to his illegal relationship with her and in furtherance of their conspiracy they have committed the murder of deceased. Thus she has opposed to grant bail to the accused and with a prayer to dismiss the same.

12) Having heard both sides and I have perused the contents of the charge sheet which is containing the complaint, spot mahazar, inquest mahazar, postmortem report and containing the statements of the circumstantial witnesses. Further containing the voluntary statements of accused Nos.1 to 4 and recovery mahazars. The charge sheet was filed by the Investigation Officer on 02.03.2023 against accused Nos.1 to 5 pending receipt of FSL report. Further the charge sheet is containing the recovery mahazars of incriminating articles said to be recovered in presence of the witnesses. Therefore, the evidence of these witnesses are more prominent in adjudication of the case on hand.

13) Whereas in this case the incident is involving the brutal murder of deceased Ananda @ Anil by way of assaulting with beer bottles by the accused Nos.2 and 3 at the instance of accused Nos.1 and 4 and in order to screen the offence they tied the

stone to the stomach of dead body with drip pipe and with the assistance of accused No.5 transported the dead body in the Bolero vehicle and thrown the same to the water existing in the Government Quarry. According to the contents of the charge sheet it is the accused No.4 who entrusted the accused Nos.2 and 3 to commit murder of deceased by virtue of his illicit relationship with accused No.1. Therefore, the case on hand requires the stringent trial to reach the ends of justice.

14) In furtherance of the arguments addressed by the accused counsel I have gone through the facts and circumstances. Whereas in this case the FSL report is awaiting and the photographs of the dead body clearly exposing tying of the stone to the body of the deceased in order to make it drown into the water which is possible only by the human beings. Moreover the photographs were also taken by the accused Nos.2 and 3 in order to guaranty the same to the knowledge of the accused Nos.1 and 4. Under these circumstances the murder of the deceased appears to be very brutal and inhuman in the civic society. Under these circumstances if at all this accused is granted bail I find it all probabilities of tampering and threatening of the prosecution witnesses. Therefore, I am of the opinion that it is not a fit case to grant bail to this accused until examination of the material witnesses.

15) Under all the above discussed circumstances the apprehensions of the prosecution regarding tampering of the

witnesses and threatening of the witnesses cannot be over ruled. Looking to the materials of this case there are sufficient prima facie materials to conduct trial for the heinous offence leveled against the accused persons. Beside being these facts the bail application is not containing any other grounds entitling the accused for grant of bail as provided under Section 437(2) (ii) of Cr.P.C. As such I do not find grounds to grant bail to the accused at this stage before examination of the material witnesses. As such the arguments addressed by the defence counsel holds no good. Consequently I have come to the conclusion to dismiss this bail application. Accordingly this point for consideration is answered in the **negative** and proceed to pass the following:-

ORDER

**The bail application filed by the Accused
No.4 under Section 439 Cr.P.C., is
dismissed.**

(Dictated to the stenographer on computer, typed by him, revised, corrected and then pronounced by me in the open Court on this the **13th day of June 2023.**)

Sd/-
(H. DEVARAJU)
II Addl. District & Sessions Judge,
Kolar.