

KAMS010015222023



**IN THE COURT OF THE II ADDL. DISTRICT AND
SESSIONS JUDGE, MYSURU**

Dated this the 17th day of February 2024

:: PRESENT ::

Sri S.T. Devaraja, B.Sc., LL.B.,
II Addl. District & Sessions Judge,
Mysuru.

SC./77/2023

Complainant:

The State by Metagalli
Police Station,
Mysuru.

(By **Public Prosecutor**)

V/s

Accused:

2. Smt.Chandrakala,
W/o Late Sri.Soma,
Aged about 33 years,
R/at Haravu Village,
Chinakurali Hobli,
Pandavapura Taluk,
Mandya District.

(By **Sri.M.S.N., Adv.,**)

ORDER

Vide Petition U/Sec.439 of Cr.P.C., the Accused No.2- Smt.Chandrakala prayed for grant of bail in Cr.No.165/2022, (C.C.No.37469/2022) (SC.No.77/2023) of Metagalli Police Station registered for the offences punishable under Sections 302 and 201 r/w Sec.34 of IPC.

2. The Accused No.2 has narrated the contents of the complaint and contended she is innocent, law abiding citizen and not committed any offence as alleged by the Complainant Police and a false case is registered. It is her contention, the investigation is already completed and the charge sheet is filed, hence she is no longer required for further investigation. It is her contention, the entire charge sheet and the materials produced do not make out a prima facie case or reasonable ground to show that she has committed the alleged offences.

3. It is her contention, absolutely there are no eye witnesses and the entire case depends on surmises conjecture and voluntary statement without any legal evidence. It is her contention, absolutely there is no evidence to show that the SIM numbers allegedly used by her and the deceased in fact belonging to and used,

CDR and CAPS are not seized. It is her contention, the upper half of the body is not seized, hence the lower of the body seized is not proved to be the deceased.

4. It is her contention, in the P.M report the Doctor has expressed his inability to give the cause of death as the body was completely decomposed, hence absolutely there is no evidence to prove that the woman to whom the lower half of the body met with homicidal death. It is her contention, the relatives of the deceased identified the ornaments and cloths only when they saw in the Police Station after recovery. It is her contention, the said cloths and ornaments are all common wearing without any specific identification marks and there is no evidence to show that the victim was wearing the same when she was last seen.

5. It is her contention, no reliable evidence to show that the deceased was at her place at the relevant time. It is her contention, there are no material, prima facie to show that she is involved or participated in the commission of the offences directly or indirectly. It is her contention as per the prosecution she has assisted the Accused No.1 for disposing the dead body and there was no material prima facie to show that she had shared common intention to commit the offence under Sec.302 of IPC.

6. It is her contention, at the most she has assisted the Accused No.1 to dispose the dead body is punishable under Sec.202 of IPC., and contended she is a woman and as per the case of the Prosecution and also available evidence on record, she has only disposed the body or destruction of evidence. It is her contention, Sec.202 of IPC., is not punishable with death or life imprisonment and contended she had no intention to kill the deceased at any point of time.

7. It is her contention, she is the permanent resident of Pandavapura Taluk and Mandya District and she is coming under exceptional clause of Sec.437 of Cr.P.C., and she is a widow having two children and having the responsibility of taking care of her children. It is her contention and undertaking to abide by any terms and conditions that may be imposed by the Court and further undertaken to appear regularly before the Court as directed and not to tamper any witnesses nor flee from justice. With all other grounds, the Accused No.2 prayed to allow the Petition.

8. By referring to the contents of the charge sheet, the learned P.P., has filed a detailed objection and contended the Accused No.2 and another have committed the offences punishable under Sec.302 and 201 r/w Sec.34 of I.P.C., which are non bailable in nature and exclusively triable by the Court of Session and

punishable with imprisonment for life or death. It is the objection, there is a prima-facie case against the Accused No.2 and also contended about the necessity of the Accused No.2 for the purpose of trial.

9. It is also the objection, in the event of grant of bail there are every possibility of tampering the prosecution witnesses. It is the objection, a case in Cr.No.121/2022 is also registered for the offences punishable under Sec.302 and 201 r/w Sec.34 of IPC., at Hebbagodi Police Station. It is the objection, completion of investigation and filing of charge sheet is not a ground for grant of bail as serious allegations are made against the Accused No.2 and another.

10. By disputing the grounds urged in the bail petition, it is the objection under any circumstances the Accused No.2 is not entitle for bail as she has committed the heinous offence of murder and after completing the investigation the charge-sheet is filed which reveals the involvement of the Accused No.2. It is the objection, in the event of grant of bail there are every possibility of destroying the evidence and causing threat to the Prosecution witnesses. The learned P.P has referred to various reported decisions and with all other grounds prayed to reject the bail petition.

11. Heard. Perused the entire record and the decisions.

12. The only Point that arises for my consideration is;

(1) Whether the Accused No.2 has made out sufficient grounds for grant of bail?

(2) What Order?

13. My findings on the above Point is as hereunder;

Point No.1: **Negative**

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

REASONS

14. **POINT No.1:-** By referring to the contents of the complaint, charge sheet and the bail petition, it was the submission of the learned Advocate for the Accused No.2 since 11.10.2022, the Accused No.2 is continued in judicial custody and there is no necessity of custodial investigation as the investigation is already completed and the charge sheet is filed. It was the submission, there is no direct evidence and the entire case is based on circumstantial evidence and also contended only

based on the CDR the Accused No.2 and another have been implicated in the case.

15. It was the submission, there is no chain link, no proof of mobiles, SIM card and no documents placed in that regard. It was the submission, about the common ornaments and there was no identity and contended only based on the statement the Accused No.2 and another have been implicated and also contended there was no common intention. It was the submission referring the contents of the respective statements as well as the mahazar, accordingly contended no prima facie case is made out against the Accused No.2.

16. It was the submission, the Accused No.2 being a woman is coming under exceptional clause under Sec.437 of Cr.P.C. In this regard, the learned Advocate for the Accused No.2 referred to and relied upon the order dated 12.05.2022 of Crl.Petition No.2306/2022 . By referring to the observations and the principles laid down in the said order, it was the submission the Accused No.2 is entitle for grant of bail. It was also the submission, there is no occasion to tamper the Prosecution witnesses or to destroy the evidence and in the event of grant of bail the Accused No.2 is ready to co-operate with the trial and to abide by any conditions that may be imposed by the Court and to furnish the

surety to the satisfaction of the Court, hence prayed to allow the bail petition.

17. By referring to the contents of the charge sheet and the objection, it was the submission of the learned P.P., that the Accused No.2 and another have committed heinous offence of double murder which is non-bailable in nature and triable by the Court of Session and punishable with life or death penalty. It was the submission, a case in Cr.No.121/2022 is registered against the Accused No.2 and another for the offences punishable under Sec.302 and 201 r/w Sec.34 of IPC., at Hebbagodi Police Station.

18. It was the submission, continued judicial custody is not a ground for grant of bail and under any circumstances the Accused No.2 is not entitle for bail as there are every possibilities of tampering the witnesses and she may not available for trial. With all other grounds and by referring to the observations and the principles laid down in various reported decisions, the learned P.P. prayed to reject the bail petition.

19. On consideration of the materials available on record, on the complaint of Sri.Kumaraswamy S/o Ramegowda, a case is registered for the offences punishable U/Sec. 302 and 201 r/w Sec.34 of IPC.,

which are non bailable in nature and triable by the Court of Session and punishable with death or life imprisonment. The contents of the charge sheet reveals the involvement and commission of the offences as well as the gravity of the nature of causing double murder by the Accused No.2 and another. All the materials available on record also reveals the clear intention and motive in causing the murder and made all successful attempt to destroy the evidence by throwing the dead body pieces at different places tagged in plastic cover.

20. As referred to in the objection, the Accused No.2 and another have committed the double murder, cut into pieces and thrown in the river at different places. The contents of the charge-sheet reveals the act and conduct of the Accused No.2 and another in commission of the offences. It is also forthcoming from the record, the Accused No.2 and another have also snatched the ornaments available on the dead body and it is also forthcoming the intention of the Accused No.2 with regard to prostitution and causing the death and that she has assisted the Accused No.1 in disposing the dead body.

21. It is necessary to mention, the completion of investigation and continued judicial custody is not a ground for grant of bail and this Court is of the opinion

that the act of the Accused No.2 and another is highly condemnable and under any circumstances the Accused No.2 is not entitle for bail particularly for having committed the offences punishable under Sec.302 and 201 r/w Sec.34 of IPC.

22. It is necessary to mention, the grounds urged by the Accused No.2 that she is having two children and widow is not a ground for grant of bail. In view of the nature of the offences, this Court is also of the opinion in the event of grant of bail there are every possibilities of posing threat to the prosecution witnesses. By taking into consideration of the observations and the principles laid down in the decisions reported in; 2017 (5) SCC page 406, ILR 2016 page 1516, 1978(1) SCC 240, 2021(6) SCC Page 230, 2002 (3) SCC 598, Crl. Appeal No.833/2021, SCC (Cri) 2016(3) Page 685, SCC (Cri) 2011(3) Page 765, 1987 (Crl.L.J) Page 1872 and SCC 2020(2) Page 188, this Court is of the considered opinion the Accused No.2 is not entitle for grant of bail.

23. The offences alleged against the Accused No.2 and another clearly indicates that they have no apprehension of law as they have committed heinous offences and when such being the facts, it is not safe to release the Accused No.2 on bail at this stage and this Court is of the opinion, there are no reasonable and

sufficient grounds which warrant this Court to enlarge the Accused No.2 on bail at this stage. Hence, the bail application is liable to be rejected as devoid of merits. Accordingly, I answer the Point No.1 in the **Negative**.

24. **POINT No.2:-** In the result, I proceed to pass the following:-

ORDER

The Bail Application filed U/Sec.439 of Cr.P.C., by the Accused No.2 – Smt.Chandrakala is hereby **REJECTED**.

[Dictated to the Stenographer directly on computer, corrected, and signed by me and then pronounced in the Open Court, on this the **17th day of February, 2024**)

[S.T. DEVARAJA]

II Addl. District & Sessions Judge,
Mysuru.

