

S.C.No.93/2021

ORDERS ON THE BAIL APPLICATION U/S 439 OF CRPC
FILED ON BEHALF OF ACCUSED No.3

This is a application filed by the Accused No.3 under Sec.439 of Cr.P.C., praying to release him on regular bail in this case.

2. The Prosecution has filed the objections to this application.

3. Perused the application, objections, case records and heard both the sides.

4. The case is registered on the complaint of Sri. Purshparaj. In this case the charge sheet is already filed. The Petitioner is the Accused No.3. It is stated that the Accused No.1 to 3 and the deceased are friends. The deceased had assaulted the Accused No.1 previous to the alleged incident. It is also stated that the Accused No.1 had borrowed a sum of Rs.15,000/- from the deceased. The Accused No.1 used to seek time for repayment of the amount. On 12.12.2020 when the deceased came to the house of Accused No.1 and demanded the money, the Accused No.1 requested for some more time. When the Accused No.1 requested for some more time the deceased abused him and left the place. It is stated that the owner of the house had asked the Accused No.1 to vacate the house on the ground that the drunkards visit the house and quarrel near the house. It is also stated that there was another incident on 14.12.2020 when the Accused No.1 was assaulted by the deceased. It is stated that both the Accused No.1 to 3 were together and at that time, the Accused No.1 informed the Accused No.2 and 3 that the deceased has insulted him and therefore he should be taught a lesson and hence, they went to the house of the deceased. On 14.12.2020 during night hours and all of

them consumed alcohol. The Accused No.1 as per the plan tried to strangle the deceased with the waist belt and later with the towel. It is stated that the Accused No.2 was holding the legs of the deceased and the Accused No.3 was holding the other end of the towel. It is stated that the Accused No.3 has stabbed to the left leg of the deceased. It is stated that later the Accused No.1 has got clicked the photograph showing him strangulating the deceased with the towel. It is stated that the said photograph is got clicked by the Accused No.3 and the same is forwarded through Whats App to CW14. The towel, belt and the knife used for the commission of the offence is recovered from the house of the Accused No.1.

5. The Accused No.3 has stated that he is innocent of the offences alleged against him. He has been falsely implicated. He has no criminal antecedents. He has undertaken to abide by the terms and conditions that may be imposed on him. He is the only bread earner in the family and all the members of his family depending on him. Therefore, the Accused No.3 has prayed for grant of bail.

6. The Prosecution has filed objections to this application. In the objections the Prosecution has stated the facts of the case. The offences is punishable with the death or life imprisonment. The materials on record prima-facie show that the commission of the offences by

the Accused. The Investigating Officer has filed charge sheet after completing the investigation. There are chances of the Accused absconding and delaying the trial. The Accused may repeat the similar offences and threaten the Prosecution witnesses. Therefore, the Prosecution has prayed to reject the bail application.

7. Now the point that arises for consideration of this Court is :

“Whether the Accused No.3 is entitled to be released on regular bail as prayed under Sec.439 Cr.P.C?”

8. The answer to the above point is in the **Negative** for the following:-

REASONS

9. The Accused No.3 is in judicial custody since 18.12.2020. The materials show that the Accused and the deceased were friends and used to consume alcohol together. The allegation is against the Accused No.1 that he has strangled the deceased with the belt and the towel. The allegation against the Accused no.3 is that he had also held the other end of the towel and had stabbed the deceased in the leg. Therefore, the materials on record prima-facie show that the Accused No.3 has played the active role in the commission of the offence along with the Accused No.1. Therefore, if he released on bail there are chances of his tampering the evidence and also

absconding. Therefore, at this stage the Accused no.3 is not entitled for bail.

10. Therefore, this Court holds that the Accused No.3 is not entitled for regular bail and hence the above point is answered in the **Negative**.

11. In the result, this Court proceeds to pass the following:-

ORDER

The Petition filed by the Accused No.3 under Sec.439 Cr.P.C., is dismissed.

[J.R.Mendonca],
III Addl. District & Sessions Judge,
Mysuru.