

KAMS010020372021



**IN THE COURT OF THE III ADDL SESSIONS JUDGE,
MYSURU**

Present: Sri.Jerald Rudolph Mendonca, B.A.L., LL.B.,

Dated this the 22nd day of March 2022

SC/93/2021

Complainant : State by Narasimharaja Police Station

V/S

Accused : A1 - Vinay @ Parota @ Selvistar S/o
Michel Babu, 27 years, R/at No.155,
2nd Cross, Kurimandi, Kesare, Mysuru
City.

**ORDERS ON THE BAIL APPLICATION U/S 439 OF CRPC
FILED ON BEHALF OF ACCUSED NO.1.**

This is a application filed by the Accused No.1 under Sec.439 of Cr.P.C., praying to release him on regular bail in this case.

2. The case is registered on the complaint of Sri.Purshparaj. In this case the charge sheet is already filed against three persons. The Petitioner is the Accused

No.1. 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. 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 C.W.14. The towel, belt and the knife used for the commission of the offence is recovered from the house of the Accused No.1.

3. The Accused No.1 has stated that he is innocent of the offences alleged against him. He is suffering from kidney problem and he is taking treatment. He has stated that for further better treatment he has to be released. He has got aged parents and is the only bread earning member of his family. He has no criminal antecedents. He has undertaken to abide by the terms and conditions that may be imposed on him. Therefore, the Accused No.1 has prayed for grant of bail.

4. The Prosecution has filed objections to this application. In the objections the Prosecution has stated the facts of the case. The offence is punishable with the death or life imprisonment. The materials on record prima-facie show that the commission of the offence 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 offence and threaten the Prosecution witnesses. Therefore, the Prosecution has prayed to reject the bail application.

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

“Whether the Accused No.1 is entitled to be released on regular bail as prayed under Sec.439 Cr.P.C?”

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

REASONS

7. The Accused No.1 is in judicial custody since 18.12.2020. This Court has earlier rejected the bail application of the accused No.1 as per order dated 26/10/2021. This bail application was filed after the filing of the charge sheet.

8. The new ground on which this application is filed is that the accused No.1 has kidney problem and is under going treatment and for his better treatment he has to be released on bail. The medical records produced show that the accused No.1 is taking treatment in the K.R.Hospital, Mysuru. There is no certificate of the doctor that the treatment for the accused No.1 is not available in the K.R.Hospital, Mysuru.

9. Considering the allegations and the manner in which the offence is committed, this Court does not find any valid grounds to release the accused No.1 on bail. There are chances of his absconding and repeating similar offences in future. Therefore, this Court is of the opinion that the accused No.1 has not made out any grounds to release him on bail as prayed by him in the application. Therefore, at this stage the Accused no.1 is not entitled for bail.

10. Therefore, this Court holds that the Accused No.1 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 application filed by the Accused
No.1 under Sec.439 Cr.P.C., is
dismissed.

(Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the open court on this the **22nd day of March 2022**).

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

Orders pronounced in the open court
(vide separate orders)

ORDER

The application filed by the Accused No.1
under Sec.439 Cr.P.C., is dismissed.

III AD & SJ, Mysuru.