

KAMS010064492021



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

Present: Smt.K.Bhagya, B.COM., LL.B.,

Dated this the 21st day of September 2024

SC/261/2021

Complainant:

State by T.N.Pura Police Station, repled. By
Public Prosecutor, Mysuru District,
Mysuru.

/vs/

Accused:

Mahesha S/o Rangaiah, Aged about 35
years, R/at Bannahalli Village,
T.Narasipura Taluk, Mysuru District.

**Order on bail application filed by the accused U/s 439
of Cr.P.C.**

It is stated in the bail application that the complainant police have registered a case against this accused for the offence punishable U/s 302 of IPC. As the charge sheet has been filed, the case has been committed to this Court, it is

now numbered before this Court as SC.No.261/2021. The alleged offence is non-bailable in nature.

2. It is further stated that the entire charge sheet and materials do not make out any prima-facie case and reasonable grounds to show that he has committed the above said offence. As per the evidence produced along with the charge sheet this accused has no motive or intention to commit the above said offence. Hence absolutely there are no grounds to satisfy the ingredients of Sec.302 of IPC, it only attracts the ingredients of Sec.304 part 2 of IPC. Earlier he was released on bail by the Hon'ble High Court of Karnataka. Then, due to mistake of hearing dates and miscommunication, he was remained absent for three hearing dates and hence the Court has issued NBW against him and on 20/07/2023 the police have arrested him. Now he is in JC. The reason stated by him is bonafide reason and not intentional one. Further stated that he is innocent and law abiding citizen. He has not committed any offence as alleged by the police. A false case has been registered against him. In this case case, the IO has completed the investigation and filed the charge sheet and he is not required for further investigation. He undertakes to appear before the Court on all hearing dates and ready to abide by the conditions imposed by this Court and ready to furnish surety. Hence prayed to allow the application.

3. The PP filed objections by reiterating the complaint averments and contended that the charge sheet reveal the involvement of this accused in committing the offence. On perusal of the case papers it reveal that there is a prima-facie case against the accused. The alleged offence is non-bailable and punishable with death or imprisonment for life along with fine. Earlier this accused was released on bail by Hon'ble High Court of Karnataka. Later, he has been absconded. Hence, this Court has issued NBW against him and the police have arrested him. There is particular allegation on this accused. Further relied upon the decision of Hon'ble Apex Court reported in SCC(Crl) 2011(3) 765 between Prashanth Kumar Sarkar Vs Ashis Chatarji and Another, and argued that the accused are not entitled for bail in offence punishable with life imprisonment or with death sentence. In such cases, the Courts have to consider the nature of the offence and then to dispose bail applications. She has also relied upon the decisions reported in 2021(6) between Ramesh Bhavin Rathod Vs Vifbai Hirabai Makadana (Koli) and also relied upon the judgment of Hon'ble Andra Pradesh, High Court reported in 1978(1) SCC 240 and the judgment of Hon'ble Apex Court in Crl.A.No.833/2021 between Harijith Singh Vs Indrapreeth Singh @ Indar and Another. By relying upon these decisions the learned PP prayed to reject the bail application.

4. Heard the argument of both side.

5. Now the points that arise for my consideration are:-

1. Whether the accused has made out grounds to allow the present application?
2. What order?

6. My answers to the above points are as follows:-

Point No.1 : In the Affirmative

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

REASONS

POINT NO.1:

7. I have gone through the charge sheet. The IO filed the charge sheet against this accused for the offence punishable U/s 302 of IPC as he had murdered Lakshmamma by assaulting with a club on her head. The deceased Lakshmamma died on the spot itself. The deceased Lakshmamma was none other than the mother of this accused. Later, the police have arrested the accused. This case has been committed by the Trial Court. The order sheet reveal that this Court has heard the argument of both side on framing of charges. The charge framed, read over and explained to the accused in Kannada language known to him. He pleaded not guilty and claims to be tried. Thereafter, this accused was absent. NBW was issued. Again the NBW recalled by this Court. This Court issued summons to the

witnesses. The charge sheet reveal that there are 30 witnesses. Among them, 13 witnesses have been examined before this Court. The P.W.1 to 4 were not cross examined by the advocate for accused. Hence, this Court allowed the application filed for recalling the said witnesses. In the mean while one Smt.Jyothi advocate from DLSA, Mysuru, filed vakalath for accused and also filed an application U/s 439 of Cr.P.C. Later, the said advocate Smt.Jyothi submitted before the Court that the accused want to change the advocate. Hence, on the next date of hearing, Sri.K.M.Anand, Advocate, from DLSA filed vakalath for accused.

8. Here, this accused was on bail as per the order of Hon'ble High Court of Karnataka in CrI.P.No.415/2023. Later, he did not appear before the Court. Hence, this Court had issued NBW to him and notice to surety. Thereafter, the police brought the accused before the Court under warrant. This Court took him to its custody and hence the accused is in JC since 20/07/2023.

9. Of course, the alleged offence is punishable with death sentence or with life imprisonment. The learned PP vehemently argued that in this case the accused is not entitled for bail. But, the learned counsel for the accused argued that the charge sheet reveal that accused had no motive or intention to commit the alleged offence. There are no grounds to satisfy the ingredients of Sec.302 of IPC. But,

the offence alleged to be committed by the accused attracts the ingredients of Sec.304(2) of IPC. Of course, definitely, as rightly argued by the learned counsel for the accused, there was no motive or intention to commit the alleged offence by the accused. But, because of the assault of accused with a club on the head of Lakshamma, who is none other than the mother of accused, died at the spot. The trial has already been started. 13 witnesses have been examined before the Court. The Hon'ble High Court of Karnataka once released the accused on bail. So, by considering these aspects and also by considering the fact that the accused is the resident of Bannahalli Village, T.Narasipura Taluk, Mysuru District, if released on bail by putting certain stringent condition, no prejudice would be caused to the prosecution side. Hence, I answer Point No.1 in the **Affirmative**.

POINT NO.2:

10. In the result, I proceed to pass the following:-

ORDER

The bail application filed by the accused U/s 439 Cr.P.C., is hereby allowed with the following conditions:

1. The accused has to execute a bond for a sum of Rs.1,00,000/- with two sureties for the likesum.

2. He shall be regular in attending the Court on all hearing dates.
3. He shall not tamper Prosecution witnesses.
4. He shall not involve in committing any offences.
5. The accused and the sureties shall furnish their photo along with address proof.

(Dictated to the Stenographer directly on computer and then pronounced in the open court on this the 21st day of September 2024)

(K.Bhagya)
III Addl.District & Sessions Judge
Mysuru.

(Order pronounced in open Court vide separate Order)

ORDER

The bail application filed by the accused U/s 439 Cr.P.C., is hereby allowed with the following conditions:

1. The accused has to execute a bond for a sum of Rs.1,00,000/- with two sureties for the likesum.
2. He shall be regular in attending the Court on all hearing dates.
3. He shall not tamper Prosecution witnesses.

4. He shall not involve in committing any offences.

5. The accused and the sureties shall furnish their photo along with address proof.

III AD & SJ, Mysuru.