

KAMS010065822021



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

Dated this the 17th day of January 2024

:: PRESENT ::

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

SC./268/2021

Complainant:

The State by T.Narasipura
Police Station,
Mysuru.

(By **Public Prosecutor**)

V/s

Accused:

Sri.Mahesh Kumar,
S/o Late Sri.Nanjundaiah,
Aged about 24 years,
R/at Ambedkar Beedi,
Muguru, T.Narasipura Taluk,
Mysuru District.

(By **Sri.R.E., Adv.,**)

ORDER

Vide Petition U/Sec.439 of Cr.P.C., the accused prayed for grant of bail in Cr.No.290/2021, (C.C.No.780/2021) (SC.No.268/2021) of T.Narasipura Police Station registered for the offences punishable under Sections 302 and 201 of IPC.

2. The accused has narrated the contents of the complaint and contended he is the permanent resident of Mysuru, hails from a respectable family, having old aged parents and owns movables with good reputation in the locality. It is his contention, out of the entire investigation absolutely could not make out any prima facie case to establish that he was directly or indirectly involved in the alleged incident. It is his contention, he is ready and willing to abide by any conditions that may be imposed by the Court in the event of granting bail.

3. The accused has undertaken to abide by the conditions that may be imposed by the Court and to furnish surety to the satisfaction of the Court while granting bail. It is his contention, if the bail is not granted, he will be deprived of personal liberty guaranteed under the constitution and also contended the out come of the entire investigation may not have much about the proof of proving the prima facie

involvement in commuting the offence. With all other grounds, the accused prayed to allow the Petition.

4. By referring to the contents of the charge sheet, the learned P.P., has filed a detailed objection and contended the accused has committed the offences punishable under Sec.302 and 201 of I.P.C., which is non bailable in nature and exclusively triable by the Court of Session. It is the objection, there is a prima-facie case against the accused and also contended about the necessity of the accused for the purpose of trial and it is also the objection in the event of grant of bail there are every possibility of tampering the prosecution witnesses.

5. By disputing the grounds urged in the bail petition, it is the objection under any circumstances the accused is not entitled for bail as he has committed the heinous offence of murder of deceased Bhagyalakshmi and after completing the investigation the charge-sheet is filed which reveals the involvement of the accused. It is the objection, the previous bail application filed by the accused already rejected and no such grounds have been made out for grant of bail at this stage. It is the objection, the trial is in progress and in the event of grant of bail there are every possibility of destroying the evidence and causing threat to the Prosecution witnesses. With all other grounds, by referring to the

reported decisions, the learned P.P. prayed to reject the bail petition.

6. Heard. Perused the entire record.

7. The only point that arises for my consideration is;

(1) Whether the accused has made out sufficient grounds for grant of bail?

(2) What Order?

8. My findings on the above points are as hereunder;

Point No.1: **Negative**

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

REASONS

9. **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 ever since from the date of registering the case, the accused 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, the PWs.1 to 4 have been examined

and the further trial will take a long time to conclude the matter and there is no necessity to detain the accused in the custody till the conclusion of the trial. It was the submission, the father of the accused is expired and the accused has to take care of his mother who is suffering from ailment and in this regard produced the copies of the medical document, death certificate, ration card, aadhar card and the RTC.

10. It was the submission, the major witnesses already examined by the Prosecution and there is no occasion to tamper the Prosecution witnesses or to destroy the evidence. The learned Advocate for the accused has disputed the statement of the eye witnesses as the same are created and suspected. It was the submission, in the event of grant of bail the accused is ready to co-operate with the trial and the accused is ready to abide by any conditions and to furnish the surety to the satisfaction of the Court, hence prayed to allow the bail petition.

11. By referring to the contents of the charge sheet and the objection, it was the submission of the learned P.P., that the accused has committed heinous offence of murder which is non-bailable in nature and triable by the Court of Session. It was the submission, the earlier bail application came to be rejected on

23.01.2023 and that the accused has not approached the Hon'ble High Court of Karnataka, Bengaluru against the order dated 23.01.2023 and there are no changed circumstances to grant the bail at this stage. The learned P.P has referred the evidence of PWs.1 to 4 which reveals prima facie case against the accused as well as the gravity of the offence in causing the murder. It was the submission, continued judicial custody is not a ground for grant of bail and under any circumstances the accused is not entitle for bail as there are every possibilities of tampering the witnesses and he may not available for trial. With all other grounds and by referring to the reported decisions, the learned P.P. prayed to reject the bail petition.

12. On consideration of the materials available on record, on the complaint of Poojashree.M, a case is registered against the accused for the offences punishable U/Sec. 302 and 201 of IPC., which are non bailable in nature and triable by the Court of Session. The contents of the charge sheet reveals the involvement and commission of the offences as well as the gravity of the nature of causing murder. All the available photographs on record reveals the clear intention and motive in causing the death of Smt.Bhagyalakshmi and that he has made all successful attempt to destroy the evidence.

13. In the case on hand, the evidence is in progress and PWs 1 to 4 are already examined and the remaining witnesses are pending for examination. The previous bail application of accused came to be rejected on 23.01.2023 and admittedly he has not approached the Hon'ble High Court of Kanrataka, Bengaluru against the order dated 23.01.2023 and there are no changed circumstances to grant bail. The order sheet reveals even as on the date of rejection of the bail application the evidence of PWs.1 and 2 was recorded.

14. As referred to in the objection, the accused has committed the murder by making use of axe and caused multiple grievous injuries on the head, neck and other parts of the body. The contents of the charge-sheet reveals the act and conduct of the accused in commission of the offences. 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 is highly condemnable and under any circumstances the accused is not entitle for bail particularly for having committed the offences punishable under Sec.302 and 201 of IPC.

15. It is necessary to mention, the grounds urged by the accused that he is having age old mother who is suffering from ailment and death of father of the accused

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, CrI. Appeal No.833/2021, SCC (Cri) 2016(3) Page 685, SCC (Cri) 2011(3) Page 765, 1987 (CrI.L.J) Page 1872 and SCC 2020(2) Page 188, this Court is of the considered opinion the accused is not entitle for grant of bail.

16. The offences alleged against the accused clearly indicates that the accused has no apprehension of law as he has committed heinous offences and when such being the facts, it is not safe to release the accused on bail at this stage. As stated above, there are no changed circumstances and as such having regard to all these facts and circumstances, this Court is of the opinion, there are no reasonable and sufficient grounds which warrant this Court to enlarge the accused 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**.

17. **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 – Sri.Mahesh Kumar 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 January, 2024**)

[S.T. DEVARAJA]

II Addl. District & Sessions Judge,
Mysuru.

