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SC/185/2022

**IN THE COURT OF THE VIII ADDITIONAL DISTRICT &
SESSIONS JUDGE AT MYSURU SITTING AT HUNSUR**

Dated this the 21st day of July 2026

:Present:

**Smt.Sandhya Rao.P., B.Sc., LL.B.
I Addl. District & Sessions Judge, Mysuru.**

**C/c VIII Addl. District & Sessions Judge
Mysuru Sitting at Hunsur.**

SC.No.185/2022

Petitioner:

Smt.Nethravathi,
w/o Basavaraju,
Age: 27 years,
r/at Malluru Village,
Saraguru Taluk,
Mysuru District.

[By Sri.SP, Advocate]

v/s

Respondent:

Saraguru Police Station,
Mysuru.

[By learned PP]

ORDER

The petitioner/accused No.1, has filed this petition under Section 439 of CrPC, seeking grant of regular bail in Cr.No.12/2022 (CC.No.2322/2022) of Saraguru Police Station, Mysuru registered for the offences punishable under Sections 302, 120B r/w Section 34 of IPC.

2. The gravamen of the charge sheet in question reflects that; the period prior to 21.01.2022, for about one and a half years, Accused No.1 had become acquainted with Accused No.2 through facebook on a mobile phone while residing at her house in Mulluru village. Their acquaintance developed into an illicit relationship. The deceased Basavaraju i.e., husband of accused No.1 had reportedly become suspicious and angry as accused No.1 was speaking with accused No.2 over the phone several times every day. On several occasions, he allegedly assaulted accused No.1 and snatched away and damaged her mobile phone. Accused No.1 is stated to have informed Accused No.2 that her husband had discovered their illicit relationship, assaulted her, and confiscated and broke her mobile phone. Thereafter, accused No.2 purchased and provided accused No.1 a Redmi mobile phone and a SIM card to accused No.1, facilitating the continuation of their relationship.

3. It is further stated that on 21.01.2022, the deceased Basavaraju allegedly noticed that accused No.1 was secretly communicating with accused No.2 and took away her mobile phone. Subsequently, accused No.1 allegedly contacted accused No.2 from another mobile number and informed him that her husband had taken away the phone given by him and had come to know about their relationship. She allegedly stated that some solution had to be found and asked accused No.2 to come to Mulluru village. Acting on her request, accused No.2 allegedly arrived in Mulluru village at about 11PM on the same day on his motorcycle, parked it outside the village, proceeded to the house of accused No.1 and both accused allegedly conspired to commit the murder of Basavaraju. On the same day at about 9:30 PM Basavaraju had returned home after completing his auto-rickshaw rental work and had gone to sleep on a cot inside his house. In furtherance of their common intention and pursuant to the conspiracy hatched earlier, between 12:00 midnight and 12:30 AM, accused No.2 allegedly sat on the deceased and tightly held both his hands, while accused No.1 allegedly pressed his mouth with one hand and repeatedly struck and squeezed his private parts (testicles) with the other hand, thereby causing his death.

4. In the back drop of the aforementioned facts, the petitioner/accused No.1, has moved the present petition stating that she is an innocent and law abiding citizen having deep roots in the society. She has not committed the offences as alleged against her and the said offences are non-bailable in nature. She is the permanent resident of Malluru Village, Saraguru Taluk. She has been in judicial custody for a considerable period. She was arrested and taken into judicial custody on 22.01.2022 and since then has been continuously in judicial custody. Accused No.2 has already been granted bail. Accused No.1 has a male child who is now staying in an hostel without proper parental care, family support and basic amenities. The deceased Basavaraju had a history of maintaining relationships with other women and suffered from a serious genital ailment for which he had already undergone surgery. Despite treatment, he continued sexual activity, resulting in recurring pain and complications. On the date of the incident, he is stated to have suffered severe pain and despite seeking help succumbed to the condition. Accused No.1 came to know of the said facts only after marriage and was subjected to ill-treatment when she questioned the deceased regarding the same. Further it is stated that the family of the deceased, being a large and affluent family with substantial property interests, the brothers of the

deceased in collusion, have falsely implicated accused No.1 by alleging an illicit relationship with an unknown person. Accused No.2 has also been granted regular bail. She is ready to abide by any conditions that may be imposed by this Court for granting bail and is ready to offer surety. She undertakes not to tamper with the prosecution witnesses and to appear before the Court on all dates of hearing without fail. On the said grounds the petitioner, prayed to enlarge her on bail.

5. Per contra, the learned Public Prosecutor has filed his detailed objections contending that from the investigation so far and the materials collected reveals the involvement of petitioner/accused No.1, in the commission of grievous offences as alleged against her along with accused No.2. It is further contended that the Investigating Officer after registration of FIR has conducted the spot panchanama and seized the material objects. IO has also recorded the statements of the eye witnesses and circumstantial witnesses. Upon completion of investigation the IO has filed charge sheet against the petitioners/accused persons. At this stage, if bail is granted there are chances that the petitioner would tamper with the prosecution witnesses; commit similar offences and there is every likelihood of the petitioner absconding and not appearing before the Court which will

cause delay in conducting the trial. On these grounds, the prosecution prays to reject the bail petition.

6. Heard the counsel for the petitioner and the learned Public Prosecutor. Perused the materials available on record.

7. In the aforesaid background, the following point arises for the consideration of this court:

Whether the petitioner is entitled for grant of bail under Section 439 of Cr.P.C. as sought for?

8. This court answer's the above point in the '**Negative**' for the following;

REASONS

9. On careful perusal of the materials available on record, it is seen that the present case was registered alleging that accused Nos.1 and 2 had committed the offences punishable under Section 302, 120B R/w Section 34 of IPC.

10. The case of the prosecution is that the accused Nos.1 and 2 in the backdrop of their illicit relationship had intentionally committed the murder of Basavaraju (the husband of the accused No.1) on 21.01.2022,

between 12 to 12.30 AM in the midnight, with accused No.2 allegedly sitting on the deceased and tightly holding both his hands and accused No.1 allegedly pressing his mouth with one hand and repeatedly striking and squeezing his private parts (testicles) with the other hand.

11. The investigation in the present case is now completed and charge sheet has been filed. A perusal of the case paper reveals that, the death of the deceased had taken place in his house. The deceased, petitioner and their 3 ½ year child were the only persons staying in the said house on the fatal day of death of the deceased. Furthermore, as per the case of the prosecution, the petitioner had admitted her guilt to the informant CW-1, the brother of the deceased CW-2, CW-13, CW-20 and others. CW-1, 2, 13 and 20 have already been examined by the prosecution before this court and they have supported the case of the prosecution.

12. Furthermore, the post-mortem report also reveals that the death of the deceased was due to vesovagal shock, as a result of scrotal injury. The final opinion of the doctor supports the case of the prosecution that the death was due to squeezing of the scrotal. Though the petitioner has contended that the deceased had earlier undergone surgery and despite the same had indulged in sexual activity and hence, the same had caused his

death, the post mortem report does not indicate old surgical wounds being present. Furthermore the postmortem and final opinion of doctor clearly indicates scrotal injury being the cause of death of the deceased.

13. That apart the investigating officer in order to establish the illicit relationship between the petitioner and accused No.2 have seized the mobile phone, obtained the receipt of purchase of mobile phone by accused No.2, obtained call details, chat messages etc. These at this stage prima facie establish the fact that there was a relationship between the petitioner and Accused No.2.

14. The Hon'ble Apex Court in the case of **Ram Govind Upadhyay vs. Sudarshan Singh and Ors., (2002) 3 SCC 598** has held that;

“3. Grant of bail though being a discretionary order —but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained.

Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case.

While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.

4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also

weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

15. Applying the principles laid down in the aforesaid decision to the facts of the present case, it is seen that, the offences alleged against the petitioner is grievous in nature. When an unnatural death or crime happens inside the privacy of a house, the legal burden shifts to the residents inside to explain how the event occurred. Such being the case in the instant case, it is for the petitioner to explain clearly the events that led to the death of the deceased. The explanation provided by the petitioner regarding death of the deceased as mentioned

in the petition does not match with the cause of death as mentioned in the postmortem and hence, unsatisfactory for the present. The guilt or otherwise of the petitioner can be ascertained only after elaborate trial.

16. Considering the grievous nature of the offence committed, the apprehension of the prosecution that there is every likelihood of the petitioner apprehending or tampering with the prosecution witnesses appears to be well founded. In view of the aforesaid discussion, this court is of the opinion that the petitioners have failed to make out grounds for grant of bail as prayed for in the respective petitions. Accordingly, the above point is answered in the **Negative** and consequently this Court proceeds to pass the following;

ORDER

Petition filed under Section 439 of CrPC
by the petitioner/accused No.1, is here by
rejected.

(Dictated to the Stenographer on computer, typed by her, corrected by me and then signed and pronounced by me the open Court on this the 21st day of July 2026).

sd/-

(Sandhya Rao.P)
C/c VIII Addl. Dist. & Sessions
Judge, Mysuru Sitting at Hunsur.