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IN THE COURT OF THE III ADDL. DISTRICT & SESSIONS
JUDGE MANDYA (SITTING AT SRIRANGAPATANA)

Dated: 3rd day of November, 2022

PRESENT

**Sri.Gopalkrishna Rai.T.,
B.A.,LL.B,**

III Addl. District & Sessions Judge,
Mandya Sitting at Srirangapatna.

Crl. Mis. 5402/2022

Petitioner : Murali K.P.
S/o Papanna,
Aged about 26 years,
R/o: Shravanabelagola
Road, K.R.Pete Town,
Mandya District.

(By Sri. Lokesha C.R., Advocate)

V/s.

Respondent: State by K.R.Pete Town Police Station.

**(Rep. by Smt. M.K.Prapulla, Public
Prosecutor)**

ORDER

The present Bail Petition is filed by the petitioner U/S.439 Cr.P.C., to enlarge him on bail in Crime No.154/2022 of Respondent Police Station for the offences punishable

under Sec.143, 147, 148, 302 r/w 149 of IPC on the file of learned Civil Judge and JMFC, K.R.Pete.

2. In the Bail Petition it is contended that the petitioner is innocent and he has not committed the alleged offences. He has been falsely implicated by the respondent-police on the basis of voluntary statement of A1. The petitioner hails from a respectable family and he is law abiding citizen. The petitioner is in J.C. from 29.08.2022. The petitioner is sole bread earner of his family. The petitioner is the permanent resident of address shown in the cause title of the petition as such there is no chance of he will absconding or fleeing away from justice. The petitioner is ready to abide by any conditions imposed by the Court and he is ready to furnish surety as ordered by this Court to ensure his regular attendance before the concerned Court. Inter-alia, on these grounds the petitioner prays for allowing of the bail petition.

3. Whereas the learned Public Prosecutor in her objection has contended that the K.R.Pete town police have filed charge sheet against the petitioner and other accused for the offences punishable U/Sec. 143, 147, 148, 302, 120-B, 201 R/w Sec. 149 of IPC. The offences alleged against the petitioner are very grave, serious and heinous and same are exclusively punishable with death or imprisonment for life and the same is exclusively triable by this Court of Session.

The investigation is not yet completed. At this stage there is a reasonable ground for believing that the petitioner has committed the alleged offences. If the petitioner is released on bail he may threaten the prosecution witnesses or he may abscond by violating the bail conditions. Inter-alia on these grounds the learned P P prays for rejecting of the bail petition. The learned P.P. in support of her contention has relied upon the following citations.

1. (2011) 3 SCC (Cri) 765.
2. 2018 Criminal Rulings 161.
3. 2019(1) Crimes 772 Orissa H.C.
4. I.L.R. 2016 Kar. 1516 Arakalagudu Police V/s B.D.Sandeepa.
5. 2016(3) SCC(Criminal) 685 Chandrashekara Rao V/s State of Bihar.
6. 2017(2) Crimes 56.
7. 2017(4) Crimes 525 SC.

4. Heard arguments of both the sides. Perused the material on record.

5. On the basis of the above material, the following points arise for my consideration:

1. Whether there are sufficient grounds to enlarge the petitioner on bail ?

2. What Order?

6. My findings on the above Points are as follows:

Point No.1 - In the **Negative**,

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

REASONS

7. **POINT NO.1:-** The case was registered before respondent-police station on 27.06.2022 in Crime No.154/2022 against accused persons for the offences punishable U/Sec. 143, 147, 148, 302 r/w 149 of IPC based on the complaint lodged by complainant Praveen Kumar K.R.

8. The sum and substance of the FIR is that on 27.06.2022 complainant Praveenkumar K.R. and his brother-in-law K.H. Arun @ Allu @ Arunkumar went to Ganaptahi temple, Arunkumar entered inside the temple. However, the complainant was waiting outside as he has not taken bath. When Arunkumar was praying by joining his hands at that time from inside of the temple one Yathisha his followers by name Anu, Sigadi, Sunil and 7-8 persons came in Avenger, Deo and other bikes by covering their faces by holding deadly weapons in a bag. They have assaulted Arunkumar on his face, cheek, neck, hands and other parts of the body, he screamed by calling Praveena, when complainant tried to reach Aruna, Anu and Gallivar on seeing him asked others to assault him and he ran away from the spot. When the complainant, Umesha, Madhu and others came near the spot

they saw body of Arunkumar with bleeding injuries and he died at the spot itself. The petitioner has been arraigned as A21 in the charge sheet.

9. The offences alleged against the petitioner are very grave, serious and heinous and same are exclusively punishable with death or imprisonment for life.

10. It is argued by the learned counsel for the petitioner that name of this petitioner does not find place in the complaint lodged at the earliest point of time. In fact in the written complaint it was stated that accused No.1 to 4 and 7 to 8 others have assaulted deceased Arunkumar and hence he succumbed to the injuries at the spot itself. Therefore, non mentioning the name of the present petitioner in the first information statement itself is not a ground to enlarge him on bail.

11. The learned counsel for the petitioner has argued that based upon the voluntarily confession statement of co-accused, the present petitioner is included as accused No.21. A perusal of the investigation materials would show that this petitioner watched the movement of the deceased by standing near Vinayaka Wine Store. The fact that the accused have executed the plan and killed Arunmukar is finds place in the materials that are collected during the

course of investigation. Therefore, overt act of this petitioner is in the opinion of this Court is heinous in nature.

12. Further, this petitioner along with A1 to A5, A15 to A20 have conspired together and decided to eliminate Arunkumar. So, conspiracy always takes place in secrecy. Therefore, it is humanly impossible to produce direct evidence in this regard. Under the circumstances, it cannot be said that as there is no direct evidence to connect accused No.21 to the case and hence, he is entitled for bail. Thus, on this score, the present petitioner is not entitled for bail.

13. Furthermore, at this stage there are sufficient materials available in the lines of accusation that are levelled against the petitioner.

14. No doubt, investigation into the matter has already completed. Hence, it is clear that this petitioner is not required for the purpose of investigation. However, fact remains that the offences alleged against the petitioner is heinous in nature. If in these type of cases bail is granted it will send a wrong signal to the Society.

15. It was argued that this petitioner is in judicial custody from 29.08.2022 and his detention in prison will result in violation of personal liberty. When the petitioner is involved in a serious offence like murder, at any stretch of imagination his detention may not result in violation of personal liberty. It is relevant to note that while considering personal liberty of the petitioner/accused, a duty is cast on the Court to consider seriousness of the offence alleged, grant of bail and its impact on the Society.

16. The Hon'ble Karnataka High Court in the case of State of Karnataka represented by Arakalagud Police V/s B.D. Sandeepa reported in ILR 2016 Karnataka 1516 held that;

A. CRIMINAL PROCEDURE CODE, 1973-SECTION 439- Grant of bail- Factors to be considered by the Court- HELD, Mere fact that the accused has been in judicial custody and the police have filed charge sheet is not sufficient to grant bail- Court has to consider whether there is any prima-facie or reasonable ground to believe that the accused had committed the offence, nature and gravity of the accusation, severity of the punishment in the event of released on bail, character, behavior, means, position and standing of the accused, likelihood of the offense being repeated, reasonable apprehension of the witnesses being influenced and, danger, or course, of justice being thwarted by grant of bail.

17. In the case of **Anil Kumar Yadav V/s State of N.C.T. Delhi-(e)** reported in 2017(4)Crimes 525 S.C. it was held that:- **Section 439-Period of incarceration by itself**

would not entitle the accused to be enlarged on bail in offences under Section 302-instantly, Trial Court granted bail because accused was behind the bar for 16 months-not proper.

18. It is settled proposition of law that, “**while considering the bail petition the Court has to keep in mind the nature of accusations, nature of evidence in support thereof, severity of the punishment which conviction will entail, the character, behavior, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of witness being tampered with, the larger interest of the public or state and similar other considerations**”.

19. A careful study of above proposition of law makes this Court to feel that since the offences alleged against the petitioner is heinous in nature, he is not entitled for bail. Therefore, the ratio of the above decisions is applicable to the present case.

20. Under the facts and circumstances and in view of the precedents referred to herein above this court is of view that, the petitioner has not made out any grounds muchless good grounds to enlarge him on bail. If the Petitioner is released on bail he may threaten the Complainant, the Prosecution

witnesses and he may abscond by violating the bail conditions. In such an event it will be not possible for the Prosecution to conduct trial. Hence, I am of the view that the petitioner is not entitled for bail. Accordingly, I answer point No.1 in the **Negative**.

21. **Point No.2**:- In the result for the reasons stated above, I am constrained to pass the following;

ORDER

The bail petition filed by the petitioner under
Section 439 of Cr.P.C., is hereby rejected.

(Dictated to the Judgment Writer, transcribed and computerized printout taken thereof is corrected, signed and then pronounced by me in Open Court on this **3rd day of November, 2022**).

(Gopalkrishna Rai. R)
III Addl. District and Sessions Judge,
Mandya (Sitting at Srirangapatna).

