

KAUK010015582022



**IN THE COURT OF THE 2nd ADDL. DISTRICT & SESSIONS
JUDGE, UTTARA KANNADA, KARWAR**

DATED THIS THE 16th DAY OF FEBRUARY, 2024

SPECIAL CASE NO:142/2022

PRESENT: **Sri MAYANNA. B. L.,**
B.A., LL.B.,
II Addl., District & Sessions Judge,
Uttara Kannada, Karwar.

ACCUSED NO.1: Shri. Ravichandra @ Ravi
S/o. Raju @ Rajanna Reddi,
Aged 50 years, Occ: Cooking Work,
R/o Ashraya Colony,
Gandhinagar,
Dandeli.

(By Cheif Defence Legal Aid Counsel)

Vs.

RESPONDENTS: 1. The State of Karnataka,
COMPLAINANTS Through Dandeli Police Station,
Represented by Public Prosecutor,
Uttara Kannada, Karwar.

2. Smt. Shobha W/o. Tippanna
Bhoviwaddar,
Aged 30 years, Occ: Coolie,
R/o. Ravindranagar, Mundgod Road,
Taluk : Yellapur.

ORDER

The Accused No.1 has filed the bail Application under Section 439 of Cr.P.C., seeking regular bail for the offences punishable under Sections 302, 201 read with Section 34 of IPC and Section 3(2)(va) of SC and ST (Prevention of Atrocities) Amendment Act 2015.

2. In the bail Application the Accused No.1 submits that according to the Complainant, her mother was died in between 25/08/2022 at about 7.30 p.m. to 26/08/2022 at about 10.00 a.m., and when she saw the body of her mother, she comes to the conclusion that somebody has killed her mother and hence, on suspicious circumstances she has given complaint to the Police Station without the name of the Accused No.1. After receiving the complaint, during investigation the Police have arrested the Accused No.1 for the offence under Section 302 of IPC. The Accused No.1 has contended that he is innocent and has not committed any offence. He is not at all involved in any criminal cases. The Accused No.1 is in judicial custody from the date of arrest and Accused No.2 is on bail. The Accused No.1 is living his respectful life in the society and doing his work for survivorship. He is law abiding citizen and has excellent image in the society. There cannot be any apprehension of fleeing from justice. The Accused No.1 is ready to abide by the terms and conditions that may be imposed by the Court

for granting regular bail. The Accused is ready to give proper surety for his release and he undertakes that he will not hamper or tamper the prosecution witnesses. Therefore, it is prayed to allow the bail Application and grant the regular bail.

3. The notice of bail Application was issued to the Complainant and in response to the said notice, the Complainant appeared before the Court and filed objections reiterating the complaint averments and contended that the Complainant is poor lady and doing coolie work. The Accused No.1 is not innocent person and he is cruel in nature. If the Accused No.1 is released on bail, he may trouble the Complainant and also cause harm to her family members and hence, prayed to reject the bail Application.

4. The learned Public Prosecutor has filed objections contending that the bail Application filed by the Accused No.1 is contrary to law and hence, same is liable to be dismissed. It is contended that the deceased was working in Nature Nest Home Stay. On 25/08/2022 between 1.45 a.m. to 2.00 a.m., the deceased was sleeping and the Accused No.1 came and asked her to have sexual intercourse and same was refused by the deceased and told that she will inform to owner of the Home Stay and also she will tell him remove the Accused No.1 from work and hence, the Accused No.1 killed the deceased by tying her a saree to her neck. At that time, the

deceased moved her legs and her heels were injured from the iron nails, which were lying under the wall. Then he told the Accused No.2 about the incident and thereafter, he informed the owner of the Home Stay that deceased was not well and they called the ambulance and put the dead body in the ambulance. Thereafter, the Accused No.2 took the dead body to the house of Manjunath, the relative of the deceased and told that deceased had suffered a heart attack. Upon seeing the injuries on body and heels, by suspecting, the daughter of the deceased has given complaint to the Police and the Dandeli Police have registered the case against the Accused Persons. I.O. conducted panchanama and seized the Saree, gold, broken bangles, nail and ear stud. If the Accused No.1 is released on bail, there are chances of abscondence, he may tamper the evidence and hamper the trial, he may commit similar offences and he may give threat to the witnesses and hence, prayed to dismiss the bail Application.

5. Heard the arguments addressed by the Counsel for Accused No.1 and learned Public Prosecutor.

6. The Points that arise for consideration of the Court are as under:

1. Whether the bail Application filed by the Accused No.1 under Section 439 of Cr.P.C., deserves to be allowed ?
2. What Order ?

7. The findings of the Court on the above points are as under:

Point No.1: In the Negative,

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

REASONS

8. **Point No.1**:- I have perused the Complaint, F.I.R., Chargesheet and other documents. The Dandeli Rural Police have registered the case against the Accused No.1 and 2 in Crime No.37/2022 for the offences punishable under Sections 302 and 201 read with Section 34 of IPC and Section 3(2)(va) of SC and ST (Prevention of Atrocities) Amendment Act 2015. It is alleged that the deceased was working in Nature Nest Home Stay and she was sleeping in the staff room on 25/08/2022. Since the Accused No.1 was sleeping in the tent, the Deceased woke up the Accused No.1 and told him not to sleep there, as snakes and scorpions will come and told him to go and sleep in the room. Between 1.45 a.m. to 2.00 a.m., in the mid night, the deceased was sleeping, the Accused No.1 came to speak to her and tried to physical pleasure with her and when the deceased refused and told that she will inform the same to owner of the Home Stay and also tell the owner to remove him from work, the Accused No.1 got angry and thinking that if he leaves the deceased, his dignity will be ruined and hence, he killed the deceased and he tied her neck from her saree and killed her.

When the deceased moved her legs, her heels were injured from the iron nail which was lying under the wall. At 7.30 a.m., in the morning the Accused No.1 went her room and she found dead. Then the Accused told the Accused No.2 that he killed the deceased. Though Accused No.1 killed the deceased, Accused No.1 and 2 have told lie to the owner of the Home Stay that deceased was not well and they called the ambulance and put the dead body in the ambulance with the help of Prashant and Dilip, who are working in the Home Stay and also ambulance driver Sumanth. Thereafter, the Accused No.2 took the dead body directly to Dandeli, instead of taking it to the Government Hospital, he took it to the house of Manjunath, the relative of the deceased and told that deceased had suffered a heart attack while she was sleeping. Upon seeing the injuries on body and heels, Manjunath suspected the death of deceased and shifted the body to the Hospital. Thereafter, the daughter of the deceased has given complaint to the Police and the Dandeli Police have registered the FIR in Crime No.37/2022 against the Accused Persons for the above said offences. Pursuant to the registration of FIR, the Police have arrested the Accused No.1 and 2 on 27/08/2022. Thereafter, the Accused No.2 was released on bail vide Order dated 10/02/2023 and Accused No.1 is in judicial custody from the date of arrest.

9. The learned Counsel for the Accused No.1 argued that the Accused No.1 has not committed any offence as alleged in

the complaint and he has been falsely implicated in this case. Further, in the 164 statement also, the Complainant has not made any allegation against the Accused No.1. The Accused No.1 was arrested on 27/08/2022 and he is in judicial custody from the date of arrest. The I.O. has already completed the investigation and has filed the charge sheet and hence, the Accused No.1 is not necessary for any investigation. The Accused No.1 is permanent resident of Dandeli and hence, there is no question of absconding of the Accused No.1. The Accused No.1 undertakes that he will not hamper the investigation and also ready to furnish adequate surety and abide by the conditions imposed by this Court. Therefore, it is prayed to allow the application and grant the regular bail. In support of his contention, the learned Counsel for the Accused No.1 has relied upon the following citations: 1) *Criminal Petition No.100868/2020, Mohammed Iqbal S/o. Ibrahim Shaikh Vs. The State of Karnataka, by Bhatkal Town Police Station*, 2) *Criminal Petition No.100230/2021, Rupesh @ Ajay S/o. Santosh Bandekar Vs. The State of Karnataka and* 3) *Criminal Petition No.7719/2012, Krishna @ Baddi Krishna S/o. Manju Naik Vs. State by Kumta Police Station.*

10. The learned Public Prosecutor argued that I.O. has conducted investigation and filed the chargesheet and seized the saree, broken bangles and ear stud. The Medical Officer conducted Panchanama and gave opinion that the death is

due to Asphyxia as a result of ligature strangulation. There are no valid grounds to grant bail to the Accused No.1, as he has committed the offence under Section 302 and 201 of IPC. If the Accused No.1 is released on bail, he may abscond and in such an event, it will hamper the trial. Further, the Accused No.1 may threaten the witnesses and destroy the evidence of the Prosecution. There is sufficient evidence to presume that the Accused No.1 has committed the offences alleged against him. Hence, sought for rejection of the bail application.

11. After hearing the arguments addressed by the Counsel for Accused No.1 and learned Public Prosecutor and upon perusal of the records, the allegation against the Accused No.1 that he has killed the deceased and thereafter, tried to convince the family members of the deceased that deceased died due to heart attack. It is relevant to mention here that though investigation is completed and chargesheet is filed, from the material chargesheet, there is prima facie that the Accused No.1 has committed the alleged offence. As per the postmortem report, the doctor has clearly mentioned in the postmortem report that death was caused due to strangulation and suffocation. Further, the offence under Section 302 is serious in nature and the deceased has lost her life and witnesses not yet examined.

12. It is further relevant to mention here that, in pursuance to the issuance of notice, the Complainant appeared and filed

his objection that if the Accused No.1 is released on bail, he may trouble the Complainant and his life will be in danger and also cause harm to the family members. As such, if the Accused No.1 is released on bail, there is chance of threatening the witnesses of Prosecution and also chances of tampering the evidence, cannot be ruled out. Further, the decisions relied upon by the Accused No.1 are differ from the facts and circumstances of the case and hence, the same are not applicable to the case on hand. Therefore, by keeping in mind the nature of offences and allegation made against the Accused No.1, this Court is of the opinion that it is necessary to reject the bail Application of Accused No.1. On these observations, I proceed to hold the above Point No.1 in the Negative.

13. **Point No.2:** For the reasons, discussed in the above point No.1, I proceed to pass the following:

ORDER

The bail Application filed by the Accused No.1
under Section 439 of Cr.P.C., is hereby rejected.

(Dictated to the stenographer directly on computer, typed by her, revised and corrected by me, signed and then pronounced in the open court on this the 16th day of February, 2024.)

(MAYANNA. B.L.)
2nd Addl. District & Sessions Judge,
Uttara Kannada, Karwar.