

IN THE COURT OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE,
UDUPI

PRESENT:- Sri. J.N. Subramanya,
B.A., LL.M.

Principal Dist & Sessions Judge
Udupi

Dated this 21st day of December, 2020

S.C. No.15/2020

Complainant The State-Malpe Police Station

(By Public Prosecutor)

/Vs/

Accused No.4 Pradeep @ Annu,
Aged about 40 years,
S/o Gopala Poojary,
R/at"Prameela Nilaya",
New Colony, Kodankoor,
Puttur Village, Udupi Taluk
and District.

(By Sri H.H.K., Advocate)

Order on bail application of accused No.4

The accused No.4 got filed application under section 439 of
Cr.P.C. seeking bail on the following grounds:

- a) The accused No.4 is innocent of the alleged offences and he has been falsely implicated in the above case.
- b) Absolutely no reasonable grounds to believe that the accused No.4 has committed any offences punishable with either death penalty or imprisonment for life.
- c) Malpe police intentionally for the purpose of harassing the accused No.4 colluded with complainant created concocted story and falsely foisted the above case.
- d) Accused No.4 was not present at the time of the incident and he is totally unaware of the incident as alleged by the complainant.
- e) The statement of the complainant as well as CW.2 Sulakshitha clearly shows that accused No.4 neither assaulted the deceased nor stabbed with a knife.

- f) Since from the date of arrest i.e., on 7-07-2020 accused No.4 is in J.C.
- g) The accused No.6 has been granted anticipatory bail by this court and through order dated:9-11-2020 Hon'ble High Court of Karnataka pleased to grant bail to accused No.5 Anup Kundar. Since accused No.4, 5 and 6 have been similarly placed, on the ground of parity, accused No.4 may be released on bail.

2) The learned Public Prosecutor received the notice of the petition and filed objection along with report of the I.O. asserting on the following grounds:

- (a) The allegation made in the petition are all false and incorrect.
- (b) The allegation of registration of a false case against the petitioner is false.
- (c) The accused No.4 being an highly influential person, in case of granting bail, will tamper the prosecution witnesses and

restrain the witness from deposing truth before the court.

(c) The offence alleged to have been committed by accused No.4 is heinous and non bailable in nature.

(d) In case of granting bail, there is likelihood of causing threat to the complainant.

3) I heard arguments submitted on behalf of both the parties and perused records. On the basis of materials on record, the following points would arise for my consideration.

1) Whether accused No.4 made out sufficient grounds to grant bail under section 439 of Cr.P.C.?

2) What order?

4) On the basis of materials on record, my finding on the above points are as under:

Point No.1: In the affirmative

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

following:

REASONS

5) **Point NO.1:-** Copy of the FIR shows that on 7-07-2020 at about 2.30 a.m. on the basis of a complaint of Ranjan M.Poojary, resident of 4th Cross, Laxminagara, police have registered Crime No.49/2020 against the petitioner and 4 others for having committed offence punishable under sections 143, 147, 148, 302 r/w section 149 of I.P.C.

6). In the complaint, it is alleged that on 6-07-2020 at 11.30 p.m. near the house of Srinidhi, 3rd Cross, Laxmi Nagara, Tenkanidiyoor Village, Udupi Taluk, the petitioner and 4 others formed unlawful assembly in prosecution of common object/previous enmity stabbed with sharp weapons to the abdomen, back of Yogesh thereby caused his death and left the place by sitting in a car. The complainant witnessed the incident in street light.

7). After investigation, I.O. filed the charge sheet by changing serial numbers of the accused No.1 to 6 (name of the petitioner is noted as accused No.4) making allegation in the following words:

°° ದಿನಾಂಕ:6-7-2020 ರಂದು ರಾತ್ರಿ 8.30 ಗಂಟೆಯ ಬಳಿಕ ರಾತ್ರಿ
 10.30 ಗಂಟೆ ವೊದಲು ಆರೋಪಿಗಳೆಲ್ಲ ಸಮಾನ ಉದ್ದೇಶದಿಂದ ಉಡುಪಿ
 ತಾಲೂಕು ಕೊಡವೂರು ಗ್ರಾಮದ ಕಂಬ್ಲಕಟ್ಟೆ ಮೂಡಬೆಟ್ಟು ಎಂಬಲ್ಲಿರುವ
 ಆರೋಪಿ 3 ನೇ ಸುಜಿತ್ ಪಿಂಟೋ ಯಾನೆ ಸುಜಿತ್ ಕುಮಾರ್ ನ ಹೆಂಡತಿ
 ಮನೆಯಲ್ಲಿ ಅಕ್ರಮ ಕೂಟ ಸೇರಿ ಯೋಗೀಶನನ್ನು ಹೀಗೆ ಬಿಟ್ಟರೆ ಬೆಳೆಯುತ್ತಾನೆ
 ನಾವೆಲ್ಲಾ ಸೇರಿ ಅವನನ್ನು ಕೊಲೆ ಮಾಡುವ ಎಂದು ಪರಸ್ಪರ
 ಮಾತನಾಡಿಕೊಂಡು ಒಳಸಂಚು ರೂಪಿಸಿದ ಬಳಿಕ ಆರೋಪಿ 3 ನೇ ಸುಜಿತ್
 ಪಿಂಟೋ ಯಾನೆ ಸುಜಿತ್ ಕುಮಾರ್ ನ KA-20N-6805 ನಂಬ್ರದ
 ವ್ಯಾಗನಾರ್ ಕಾರಿನಲ್ಲಿ ಆರೋಪಿಗಳೆಲ್ಲಾ ಸುಜಿತ್ ಪಿಂಟೋ ಯಾನೆ ಸುಜಿತ್
 ಕುಮಾರ್ ನ ಮನೆಯಿಂದ ರಾತ್ರಿ 10.30 ಗಂಟೆಗೆ ಹೊರಟು ಕಾರನ್ನು
 ಆರೋಪಿ 2 ನೇ ರೋಹಿತ್ ಪಿಂಟೋ ಚಲಾಯಿಸಿಕೊಂಡು ಲಕ್ಷೀ ನಗರ 6 ನೇ
 ಕ್ರಾಸ್ ಬೊಬ್ಬರ್ಯ ದೈವಸ್ಥಾನದ ಬಳಿ ಕಾರನ್ನು ನಿಲ್ಲಿಸಿ ಅವರೆಲ್ಲ
 ನಡೆದುಕೊಂಡು ಹೋಗಿ ದಿನಾಂಕ:6-7-2020 ರಂದು ರಾತ್ರಿ ಸುಮಾರು
 11.30 ಗಂಟೆಗೆ ಉಡುಪಿ ತಾಲೂಕು ತೆಂಕನಿಡಿಯೂರು ಗ್ರಾಮದ ಲಕ್ಷೀ ನಗರ
 3 ನೇ ಕ್ರಾಸ್ ಎಂಬಲ್ಲಿ ಕೊಲೆಯಾದ ಯೋಗೀಶ್ ನ ಮನೆಯ ಗೇಟಿನ ಬಳಿ
 ಸಾರ್ವಜನಿಕ ರಸ್ತೆಯಲ್ಲಿ ಯೋಗೀಶನನ್ನು ಕೊಲೆ ಮಾಡುವ ಸಮಾನ
 ಉದ್ದೇಶದಿಂದ ಅಕ್ರಮ ಕೂಟ ಸೇರಿ ಯೋಗೀಶನನ್ನು ಮನೆಯಿಂದ ಹೊರಗೆ
 ಕರೆದು ಅವನು ಗೇಟಿನಿಂದ ಹೊರಗೆ ಬಂದಾಗ ಆರೋಪಿ 4 ನೇ ಪ್ರದೀಪ್
 ಯಾನೆ ಅಣ್ಣು ಯೋಗೀಶನನ್ನು ಓಡಿ ಹೋಗದಂತೆ ಅಪ್ಪಿ ಹಿಡಿದಿದ್ದು ಆರೋಪ
 1 ನೇ ವಿನಯ ದೇವಾಡಿಗ ಆರೋಪಿ 3 ನೇ ಸುಜಿತ್ ಪಿಂಟೋ ಯಾನೆ

ಸುಜಿತ್ ಕುಮಾರ್ ಆರೋ 5 ನೇ ಅನುಪ್ ಕುಂದರ್ ಹಾಗೂ ಆರೋಪಿ 6 ನೇ ಗಿರೀಶ್ ಶೆಟ್ಟಿ ರವರು ಸೇರಿ ಕೈಗಳಿಂದ ಮನಸೋ ಇಚ್ಛೆ ಮಾರಾಣಾಂತಿಕವಾಗಿ ಹಲ್ಲೆ ಮಾಡಿದ್ದು ಆರೋಪಿ 2 ನೇ ರೋಹಿತ್ ಪಿಂಟೋ ಅವನ ಕೈಯಲ್ಲಿದ್ದ ಚೂರಿಯಿಂದ ಯೋಗೀಶನ ಬೆನ್ನಿನ ಭಾಗಗಳಿಗೆ 2-3 ತಿವಿದಿದ್ದು ಯೋಗೀಶ ತಪ್ಪಿಸಿಕೊಂಡು ಮುಂದಕ್ಕೆ ಓಡಿದಾಗ ಆರೋಪಿ 1 ನೇ ವಿನಯ ದೇವಾಡಿಗ ರೋಹಿತ್ ಪಿಂಟೋನ ಕೈಯಿಂದ ಚೂರಿಯನ್ನು ತೆಗೆದುಕೊಂಡು ಯೋಗೀಶನ ಹೊಟ್ಟೆಗೆ ತಿವಿದು ಗಂಭೀರ ಸ್ವರೂಪದ ಗಾಯ ಗೊಳಿಸಿ ಕೊಲೆ ಮಾಡಿ ಕೃತ್ಯಕ್ಕೆ ಬಳಸಿದ ಚೂರಿ ಹಾಗೂ ಕಾರಿನೊಂದಿಗೆ ಪರಾರಿಯಾಗಿರುವುದಾಗಿದೆ. ಆರೋಪಿಗಳು ಕೃತ್ಯದ ಬಳಿಕ ರಕ್ತ ತಾಗಿದ ಬಟ್ಟೆಗಳನ್ನು ಉಡುಪಿ ತಾಲೂಕು ಕೊಡವೂರು ಗ್ರಾಮದ ಸಾಯಿಬಾಬ ನಗರದಲ್ಲಿ ಇಂದ್ರಾಣಿ ಹೊಳೆ ನೀರಿಗೆ ಬಿಸಾಡಿ ಸಾಕ್ಷ್ಯ ನಾಶ ಮಾಡಿರುವುದಾಗಿದೆ.°

8. As per prosecution papers in the incident, the accused NO.3 to 6 made assault with hands on the victim.

9. Through order dated:9-11-2020 passed in Crl.P.No.5698/2020 the Hon'ble High Court of Karnataka pleased to grant bail to the accused No.5 who in the alleged incident alleged to have been made assault with the hands on the victim. Therefore, the order dated:9-11-2020 passed in Crl.P.No.5698/2020 is applicable to the accused No.4 also.

10. Hence, I came to the conclusion that it is fit and proper to grant bail to the accused No.4 by imposing suitable conditions to protect the interest of investigating agency. Hence, I came to the conclusion that accused No.4 made out sufficient grounds to grant bail as sought in the petition. Hence, I answer point No.1 in the affirmative and pass the following:

ORDER

The application filed under section 439 of Cr.P.C. on behalf of the accused No.4 is hereby allowed.

Accused No.4 is entitle to be released on bail subject execution of a personal bond for Rs.1,00,000/- (One lakh only) with two sureties for the likesum undertaking to abide by the following conditions:

(1) The accused No.4 shall appear before the court on each and every date of hearing.

(2) The accused No.4 shall not permanently leave Udupi District till conclusion of the trial.

(3) The accused No.4 shall not tamper the prosecution witnesses, shall not make any effort to destroy the evidence.

(4) The accused No.4 shall not cause any trouble to the complainant and his family members,

(5) The accused No.4 shall not indulge in any criminal activities.

Call on 19-01-2021.

(Dictated to the Judgment writer on computer, who fed & computerized, print taken, pronounced in the open court on 21st day of December, 2020)

(J.N. Subramanya)
Principal Dist & Sessions Judge
Udupi.