

**IN THE COURT OF THE PRINCIPAL AND ADDITIONAL
DISTRICT & SESSIONS JUDGE, UDUPI DISTRICT, UDUPI**

Dated this the 21st day of September, 2019

Present

Sri C.M. Joshi, B.Sc., L.L.M.

Prl. and C/c. Addl.District and Sessions Judge,

S.C.No.10/2019

Complainant:

The State,
Represented by Learned Public
Prosecutor, Kundapura

Versus

Accused:

Raviraj,
aged 31 years,
S/o Subhash Naik,
R/at. Kuntumavu Mane,
Salkodu Jadkal Village,
Kundapura Taluk.

(By Sri M.S.Shetty, Advocate)

ORDER

The accused who is J.C. has filed this bail application
under section 439 of Cr.P.C. for regular bail.

2. The brief facts of the case are as below:

Kundapura Rural Police have registered a complaint on the basis of complaint filed by one Udaya Chatrabettu wherein it was alleged that his cousin sister Gulabi was aged about 55 years and was residing in her house near Navuda Shop cross, Katbelthur and was doing fish business. Her husband died about 5 years back and her elder son Nagaraj is residing at Mumbai and younger son was residing at Bengaluru. It is stated that on 1-03-2019 at about 11.00 a.m. when he was at Nagoor, his elder sister Jalaja called him over phone informing that Gulabi died in her house and therefore, he came to the house and saw dead body of the deceased lying inside the house in a room. The said Gulabi used to wear gold chain, gold ear stud, gold ring in her finger and since all those gold items were missing from her body, he suspected her death. Therefore, the complaint was lodged to the police. On receiving information from the complainant Kundapura Rural Police have registered a case in UDR No.7/2019 under section 174(c) of Cr.P.C. Later, the police took dead body of the deceased to Manipal Hospital to post mortem and during post mortem it came to light that the deceased Gulabi died due to manual strangulation. Therefore, case was registered for the

offences punishable under section 449, 302, 392 of I.P.C. The police have arrested the accused and after completion of the investigation, the charge sheet has been filed against the accused. It was alleged by the prosecution that deceased was resident of Haregodu Sulse, Katbelthur Village, residing alone in the house and the accused being the neighbour of the deceased Gulabi was familiar to Gulabi's family and he was in financial crisis and knowing fully well that Gulabi was wearing gold ornaments. With an intention to commit robbery and the accused went to the house of the deceased at mid night of 28-02-2019, entered into the house of Gulabi, requested her to hand over the gold chain to pledge and when she refused, the accused put the towel around her neck and strangled and caused her death and took away the gold chain, gold ear stud and gold ring finger from her body and they were pledged in order to satisfy his financial crises.

3. Now, the accused contends that the allegations made against the accused in prosecution papers are all false, absurd and baseless and there are no reasonable grounds to believe that the accused has been guilty of offences. It is contended that the documents produced by the prosecution do not

disclose the role played by the accused and there are no reasonable grounds to believe that the accused has been guilty of offences. It is contended that nothing has been seized from the possession of the accused and he has completely innocent and ignorant and accused has been falsely implicated in the case. It is stated that the accused hails from poor agricultural family and he is ready and willing to abide by any conditions that may be imposed by this court and as such, he may be granted bail.

4, The learned Public Prosecutor has filed objections contending that there is sufficient material against the accused and the accused has not made out any grounds for grant of bail. He contends that statement of the witnesses has been recorded under section 164 of Cr.P.C. and brother of the accused has stated that accused had made extra judicial confession that when the accused demanded gold chain, she had refused it and had threatened that she would disclose the same to the people who are around the factory and therefore, accused had strangulated her with towel and took away gold ornaments. Therefore, he contends that there is prima facie material against the accused and extra judicial confession

made before his brother Nataraj is clear and admissible in evidence. He contends that said statement of Nataraj recorded under section 164 of Cr.P.C. shows that accused had committed such offence. Therefore, the learned Public Prosecutor contends that there is prima facie case and the accused is not entitled for bail.

5. I have heard the arguments by the learned counsel appearing for the accused and the learned Public Prosecutor.

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

Whether the accused is entitled for grant of regular bail? If so, on what conditions?

7. My answer to the above point is in the negative for the following:

REASONS

8. It is the case of the prosecution that the accused was in financial crisis and he demanded deceased Gulabi to part with her ornaments so that accused can pledge the same and get the some money, but the deceased had refused. Therefore, the accused murdered the deceased by strangulating her and took away ornaments worn by her and pledged it to get money.

It is relevant to note that entire case of the prosecution is depending upon the circumstantial evidence. After arrest of the accused, he has led the police to disclosure the towel which was used for strangulating the deceased and has also led the police to his friends, through whom he had pledged golden ornaments at S.C.D.C.C. Bank Siddapura. The statement of his friends ie., Raviraj and his wife Anitha have also been recorded by the police as well as by the learned Magistrate under section 164 of Cr.P.C. It is also relevant to note that the ornaments were also seized from the Maharaja Jewellers at Srinagar, Bengaluru where her golden ornaments were pledged through the friend of the accused Sathish. These recoveries on the basis of the voluntary statement of the accused and the statement of the witnesses recorded by the learned Magistrate under section 164 of Cr.P.C. clearly show the involvement of the accused herein. Apart from that, the call details of the accused also show prima facie evidence against the accused herein. The learned Public Prosecutor contends that these witnesses are the friends of the accused and they are vulnerable for tampering and threatening by the accused. When the witnesses have stated before the learned

Magistrate about pledging of the gold by the accused, it is evident that the accused may tamper the prosecution witnesses if he is granted bail. Evidently, the offence committed by the accused is towards unlawful gain and the motive for the commission of the offence is prima facie available before the court. Therefore, I am unable to accept the contention of the learned counsel for the accused that he is ready and willing to abide by any conditions that may be imposed by this court and he would not tamper the prosecution witnesses. The prosecution also contends that the brother of the accused was informed of the incident and it means extra judicial confession. The statement of the brother of the accused has been recorded under section 164 of Cr.P.C. which clearly indicts the accused and discloses that accused had admitted about the offence committed by him. The brother of the accused is also vulnerable and susceptible for tampering and dissuading from deposing freely before the court. Hence, the point raised above is answered in the negative and the following order is passed:

ORDER

*The bail applications filed by the accused U/s
439 of Cr.P.C., are hereby rejected.*

(Dictated to the Judgment Writer, transcribed by him, Order corrected, signed and then pronounced by me in open court, on this the 21st day of September, 2019.)

(C.M.JOSHI)

Prl. & C/c. Addl.District & Sessions
Judge, Udupi.