

**IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS
JUDGE, UDUPI (SITTING AT KUNDAPURA) KUNDAPURA**

Present :- **Sri Narahari Prabhakar Marathe, B.Com., LL.B.,**
Addl. District & Sessions Judge, Udupi,
(Sitting at Kundapura), Kundapura

Dated :- This the **17th day of November, 2020**

S.C.No. 10/2019

Accused person:

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

(By Sri. M. S. Shetty, Advocate)

//VS //

Complainant/Respondent:-

State -By Kundapura Rural Police Station

(By: Public Prosecutor)

**ORDER ON BAIL APPLICATION FILED U/S 439 OF
CR.P.C.**

This bail application is filed by the accused praying to release him on bail on the ground that there are no prima facie materials to prove the guilt of the accused for the

offences under Sections 302, 392 of IPC. The accused is in Judicial Custody for more than one year. A false case has been registered against him at the instigation of his enemies. He hails from poor agriculturist family and has deep roots in the Society. He is ready to undertake any conditions that may be imposed by the Court in case of release on bail.

2. The Learned Public Prosecutor in his objection has contended that now the investigation is over and even the charge sheet is filed against the accused for the offences under Sections 449, 302, 392 of IPC. There are sufficient materials against the accused for the above said offences. Considering the gravity of the offences, this Court had earlier dismissed the bail application. Even the bail petition moved before the Hon'ble High Court has also been dismissed. There are no changed circumstances to consider the bail application afresh. On these grounds, the Learned Public Prosecutor prays to dismiss the application.

3. Heard the arguments of learned advocate for the accused and learned P.P on behalf of state and perused the records.

4. The following point arises for my consideration:-

Whether the accused is entitled
for bail?

5. For the reasons to be stated hereinafter, I answer the above point in the **Negative:-**

REASONS

6. The perusal of the charge sheet filed by the Circle Inspector of Police, Kundapura Circle discloses that the allegations against the accused are under Sections 449, 302 and 392 of IPC. Perusal of the materials before the Court discloses that in Haregodusulse of Katbelthoor Village in Kundapura Taluk while deceased Smt. Gulabi was alone in her house, the accused in the mid night of 28-02-2019 committed criminal trespass into her house and with an intent to commit robbery of gold chain, gold ear stud, gold ring etc., he committed murder by tying his towel to her neck and thereafter, took away the above said ornaments. The police after completion of the investigation have filed the present charge sheet. Earlier this Court refused the bail by its order dated 21-09-2019. Even this applicant had approached the Hon'ble High Court seeking bail in criminal petition No.8594/2019. The same was disposed of on 22-01-2020 by rejecting the same. The Hon'ble High Court in its order observed as under:

“4. The case of the prosecution is that, petitioner/accused was in dire need of money to discharge the loan borrowed by him to purchase

a Car. He approached the deceased requesting her to handover her ornaments to raise a loan by pledging the same with bank. Since the deceased refused to part with her ornaments, on 28-02-2019 in the midnight, the accused is stated to have strangled the deceased with a towel and caused her death and thereafter robbed the gold chain, ear rings and finger ring of the deceased and pledged the same with S.C.D.C.C. Bank, Siddapura.

In the course of investigation, petitioner was arrested on 11-03-2019 and on the basis of his voluntary statment, the towel used for strangulation was recovered at his instance from underneath the bridge. The gold pleaded by him with the S.C.D.C.C. Bank, Siddapura, was also recovered at his instance. On examination of the said material, the Medical Officer has certified that the deceased died due to asphyxia, as a result of constriction of neck structures consistent with cumulative effects of ligature and manual strangulation.

5. In the wake of these material evidence, the contention of the learned counsel for petitioner that petitioner is falsely sent for trial without any material evidence, cannot be sustained. Moreover, the trial has already commenced. Having regard to the manner in which the petitioner has committed the offence and the prosecution having rested its case on circumstantial evidence, the petitioner is entitled on bail, it is likely to affect the case of the prosecution. Hence, the petitioner is not entitled for grant of bail”.

In view of the above observations made by the Hon'ble High Court, the applicant is not at all entitled for bail. Moreover, the accused has not made out any ground, which was not available to him when he moved bail application before this Court earlier and before the Hon'ble High Court. Therefore, there are no changed circumstances to consider the case of the accused for the purpose of granting the bail. On the other hand, materials placed before the Court as of now are sufficient to show the prima facie case against the accused for the offences under Sections 449, 302, 392 of IPC. Therefore, the bail application deserves to be dismissed. Therefore, I answer the **above point in the Negative** and proceed to pass the following:-

ORDER

The bail application filed by the
accused under Section 439 of Criminal
Procedure Code is dismissed.

*(Dictated to the Stenographer, transcribed by her, corrected and signed by me and then pronounced in open court on this the **17th day of November, 2020**)*

(NARAHARI PRABHAKAR MARATHE)
Addl. District & Sessions Judge, Udupi
(Sitting at Kundapura), Kundapura