

**IN THE COURT OF THE SESSIONS JUDGE AT YADGIRI**

**Present:- Sri. S. SRIDHARA,**

B.Sc., LL.B.,  
District and Sessions Judge,  
**YADGIRI.**

**S.C.No.32 of 2020**

**Dated this the 1<sup>st</sup> day of March, 2021**

**COMPLAINANT:-**

THE STATE OF KARNATAKA  
BY GURUMATKAL POLICE STATION.  
(BY PUBLIC PROSECUTOR)

**- VERSUS -**

**ACCUSED NO.1:-**

ASHWINI W/O JAGANNATH KILLANKERA, AGE: 30 YEARS, OCCUPATION: BEAUTICIAN WORK, R/O SHAHABAD NAGAR, AT PRESENT CHIRANJEEVI NAGAR, YADGIRI.  
(BY SRI. MARUTI M.EATE, ADVOCATE)

**ORDERS ON BAIL APPLICATION OF ACCUSED NO.1 FILED U/SEC. 439 OF CR.P.C.**

This bail application is filed by the petitioner who is the accused No.1 U/Sec. 439 of Cr.P.C. praying this Court to enlarge her on regular bail by accepting surety in Cr.No.1/2020 of Gurumatkal police station (S.C.No.32/2020) in connection with the offences punishable under Sections 302, 201 R/w Section 34 of IPC and under Section 177 of IPC in the interest of justice.

2) In the bail application the contents of the complaint/charge-sheet has been reiterated and further stated that based on the complaint filed by the complainant, case is registered against the present petitioner/accused No.1 and another and after completion of investigation, I.O. submitted the charge-sheet, against the present petitioner/accused No.1 **for the offences punishable under Sections 302, 201 R/w Section 34 of IPC and under Section 177 of IPC** and as against accused No.2 for the offences punishable under Sections 302, 201 R/w Section 34 of IPC. The petitioner/accused No.1 is in judicial custody since from the date of her arrest and hence sought regular bail on the following grounds;

**GROUNDS OF BAIL READS AS UNDER**

- i) *That the accused No.1/petitioner is innocent and she has been falsely implicated in this case by the complainant with a false, baseless and concocted story.*
- ii) *That the accused No.1/petitioner has led her marital life with the deceased cordially and couple are also blessed with two children.*
- iii) *That the deceased who was not having any work, addicted to bad vices like consuming alcohol and on many occasions he left home and he was suffering from depression and used to take Ayurvedic medicine every day, but in spite of that he has not recovered and gone to depression. But accused No.1 has not committed any offences etc.*

- iv) That the accused No.1/petitioner is in judicial custody since 5-1-2020 and except the petitioner no other persons are there to look after her two children i.e., Sagar aged about 12 years and Prajwal aged about 10 years.
- v) That are no eye-witnesses to the alleged incident and no other evidence to connect the accused No.1/petitioner with the alleged charges.
- vi) That the accused No.2 is already released on bail by the Hon'ble High Court of Karnataka in Crl.Petn.No.200155/2020 dated 4-3-2020.
- vii) That the accused No.1/petitioner is the permanent resident of Shahabad Nagar and now residing at Chiranjeevi Nagar and she is having movable and immovable properties. She is ready to furnish surety and ready to abide by the conditions and prayed this Court to enlarge her on regular bail as indicated above.

3) State filed objections wherein the contents of the complaint and charge-sheet has been reiterated and further stated that the concerned I.O. on completion of investigation submitted the charge-sheet against the above petitioner/accused No.1 and another. The offences alleged against the accused No.1 and another is one under Section 302 of IPC, which is punishable with capital punishment like death or life. In the event of granting bail to the petitioner/accused No.1 at this stage, there is every chances of she threatening and tampering the prosecution witnesses and hampering the trial. On careful perusal of the contents of the complaint and materials collected by the I.O. during the course of investigation reveals prima-facie case against the petitioner/accused No.1. So among several other grounds, State prays for rejection of bail application.

- 4) Heard the arguments of both sides and perused the records.
- 5) Now the points that arise for my consideration is;
1. **Whether bail application filed by the petitioner who is accused No.1 U/Sec. 439 of Cr.P.C. deserves to be allowed?**
  2. **What Order?**
- 6) My finding on the above points are as under;
- Point No.1 :- In the negative.**  
**Point No.2 :- As per for the following;**

### **REASONS**

7) **Point No.1:-** Admittedly, in this case investigation has been completed and charge-sheet has been filed. In ground No.2 (page No.5 of the bail application), it is stated that deceased was without any work and addicted to bad vices like consuming alcohol and on many occasions he left home and he was suffering from depression and used to take Ayurvedic Medicine every day, but in-spite of that he has not recovered and gone to depression, but accused No.1 has not committed any offences etc. **To show that**

**deceased gone for depression and he was taking Ayurvedic Medicine, prima-facie no document has been produced.**

8) On careful perusal of the charge-sheet, it is seen that initially case was registered under Section 174(c) of Cr.P.C. i.e., UDR case was registered and subsequently, **a missing complaint was filed by the wife of the deceased, who is none other than the present petitioner, who is prime accused No.1 in this case.** She after identifying the clothes, slippers and photo as that of her husband in the police station and complainant also came to know the same from the present petitioner who is accused No.1.

9) Charge-sheet also discloses the fact that on 4-1-2020 CW.1 filed complaint stating that her sister-in-law i.e., the present petitioner/accused No.1 by name Ashwini and one Shashikumar (appears to be accused No.2) both committed murder of the elder brother of the complainant and to destroy the evidence, they have thrown the dead-body some where in a Ghat Section at Dharmapur and based on which, case is registered in Cr.No.1/2020 for the offences punishable under Sections 302, 201 R/w Section 34 of IPC and accordingly both the accused were taken to custody and they were subjected to interrogation etc.

10) Charge-sheet also discloses the fact that the present petitioner who is accused No.1 so also the accused No.2 by name Shashikumar since long several years had physical contact and accordingly the present petitioner expressed her intention to commit murder of her husband as her husband used to come home by consuming alcohol and used to assault her and used to abuse her in filthy language, but though accused No.2 initially refused, but subsequently accepted the request of accused No.1 to commit murder of the deceased.

11) Charge-sheet also discloses the fact that on 22-2-2019 at about 10-00 p.m. again as usual deceased came home by consuming alcohol and caused galata with his wife i.e., the present petitioner/accused No.1 and also stated that she used to call the accused No.2 to the home and used to enjoy with the said Shashikumar i.e., accused No.2 and thereafter deceased under intoxication stage slept in the house. Taking advantage of the same as a right time, **accused No.1 called accused No.2 through phone to her house situated at Chiranjeevi Nagar, Yadgiri and both accused Nos.1 and 2 with their common intention, committed murder of the deceased on 22-2-2019 at about 11-40 p.m. by pressing the mouth and nose of the deceased with the help of pillow and deceased (Jagannath Killankera husband of the petitioner/accused No.1) died because of suffocation asphyxia.**

12) Charge-sheet also discloses the fact that to conceal the said offence and to destroy the evidence, on the same day night, **both the accused in a Car bearing registration No.KA-33-M-1830 belongs to accused No.2 taken the dead body to Dharmapur Ghat situated in the limits of Gurumatkal and in cross road thrown the dead body** and thereafter on the next day morning the present petitioner/accused No.1 disclosed before the complainant (younger brother of the deceased) that her husband was missing since last two days and thereafter **she filed missing complaint.**

13) Charge-sheet also discloses the fact that as the deceased was an obstacle for the enjoyment of accused Nos.1 and 2 and hatched up a plan of commit murder of the deceased hoping that if they had committed the murder of the deceased they can enjoy without any interference and accused Nos.1 and 2 committed murder of the deceased Jagannath and destroyed the evidence by throwing the dead-body and filed a false missing complaint before the concerned police and investigation reveals the fact that it is accused No.1 who has committed the offences punishable under Sections 302, 201 R/w Section 34 of IPC and also under Section 177 of IPC and it is accused No.2 who has committed the offences punishable under Sections 302, 201 R/w Section 34 of IPC.

14) It appears that the alleged illicit relationship between accused Nos.1 and 2 was the reason for committing the murder. They have not only committed murder, but also destroyed the evidence by throwing the deadbody in a lonely place that too in a Ghat Section and thereafter accused No.1 furnished false information to the complainant as well as police and filed false missing complaint by stating that her husband is missing. The voluntary statement of accused Nos.1 and 2 also discloses about their relationship and both with an intention to commit the murder of the deceased who is none other than the husband of accused No.1.

15) The C.D.R. details were also collected and available in the file, which appears to be to show the conversation between the accused Nos.1 and 2 in their mobile.

16) In the post mortem report though it is stated that cause of death was pending till the FSL and HPE report, but viscera that was sent for chemical analysis reveals that **residues of volatile poisons, pesticides, drugs, alkaloids, toxic metal ions and anions were not detected in all the above stated articles that were sent for chemical analysis.** Pathology department issued report stating that **Hyoid Bone was not fractured.** **This prima-facie indicates the fact that cause of death was due to asphyxia by pressing the mouth and nose by using pillow.**

17) Inquest panchanama also reveals several injuries that was noticed on the head and dead body appears to be in a decomposed stage. **The present petitioner is the prime accused No.1 and she is the wife of the deceased.**

18) The offences alleged is one under Sections **302, 201 R/w Section 34 of IPC and under Section 177 of IPC**, which are not only heinous, but also punishable with capital punishment like death or life. If at this stage, petitioner/accused No.1 is enlarged on bail, there is every chances of she absconding, threatening the complainant and tampering the prosecution witnesses and in the event of she absconding, there is every chances of delaying the trial. This is not a fit case to extend benefit of bail under Section 439 of Cr.P.C. and bail application of petitioner/accused No.1 lacks bonafides, which deserves to be rejected. Hence, I answer point No.1 in the **Negative**.

19) **Point No.2:-**In view of my findings on point No.1, I proceed to pass the following order;

**ORDER**

***Bail application filed by petitioner/accused No.1 under Section 439 of Cr.P.C. is hereby rejected.***

(Dictated to the Judgment-Writer, transcribed by him, script corrected by me and then pronounced in open Court on this the **1<sup>st</sup>** day of **March, 2021**).

**(S. SRIDHARA)**  
**Sessions Judge,**  
**Yadgiri.**