

IN THE COURT OF THE SESSIONS JUDGE AT YADGIRI

Present:- Sri. S. SRIDHARA,

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

Spl.Case No.86 of 2019

Dated this the 22nd day of March, 2021

COMPLAINANT/STATE:-

- 1) THE STATE OF KARNATAKA, BY YADGIRI RURAL POLICE STATION.....STATE
- 2) AMRUTHA W/O AMAR KAMBLE, R/O LONI, TQ. HAVELI, DIST. PUNE, MAHARASTRA STATE.COMPLAINANT.

(STATE BY PUBLIC PROSECUTOR)

(COMPLAINANT ABSENT.)

- VERSUS -

PETITIONER/ACCUSED NO.3:-

AMUL JEEVARAJ PILLE S/O JEEVARAJ PILLE, R/O JAI JAVAN NAGAR, YERAVADA, PUNE (MAHARASTRA STATE).

(BY SRI. G.B.KORI, ADVOCATE)

ORDER ON BAIL APPLICATION FILED BY A.3 U/SEC. 439 OF CR.P.C.

This bail application is filed by the petitioner/accused No.3 as per charge-sheet U/Sec. 439 of Cr.P.C. praying this Court to enlarge the petitioner/accused No.3 on regular bail by accepting surety in Cr.No.116/2015 (Spl.Case No.86/2019) of Yadgiri Rural PS in connection with the offences pun. u/Sec 143, 147, 148, 302, 201 R/w Section 149 of IPC and u/Sec. 3(1)(x), 3(2)(v) of SC/ST (P.A.) Act, 1989.

2) In the bail application it is stated that accused No.3/petitioner is innocent person, but he has been falsely implicated in this case on the instigation of ill-wishers without there being any valid and sufficient grounds to believe that he has committed the alleged offences. The accused No.3/petitioner is already released on bail, subsequently he was arrested in another case registered in Yeravade, Pune and remanded to judicial custody, which was acquitted. Thereafter petitioner/accused No.3 was arrested and remanded to J.C. and he is in judicial custody since last 5 years.

3) It is further stated that accused No.3/petitioner is the only earning member of the family and if he is not released on bail, dependents of the petitioner/accused No.3 will be put to starvation.

4) It is further stated that all the offences though non-bailable, **but not punishable with death or life.** The petitioner/accused No.3 is ready to furnish surety and ready to abide by the conditions.

So on all the grounds petitioner/accused No.3 prays this Court to enlarge him on regular bail as prayed for in the interest of justice.

5) State filed objections wherein contents of the complaint and charge-sheet has been reiterated and further stated that present petitioner/accused No.3 along-with other accused persons taken active role in the murder of deceased. If bail is granted, there is every chances of threatening the family members of the deceased and destroying evidence. The offences alleged against the present petitioner/accused No.3 is one **under Section 302 of IPC** along-with other offences. The offence under Section 302 of IPC is heinous in nature and **punishable with capital punishment like death or life.** The material collected by the I.O. during the course of investigation reveals prima-facie case against the petitioner/accused No.3. If bail is granted, there is every chances of threatening the prosecution witnesses and hampering the trial. No justifiable grounds are made out for grant of bail and prayed for rejection of bail application.

6) Since the complainant/aggrieved is arrayed as respondent No.2 in the bail application, hence notice was also issued to the 2nd respondent/complainant as the offence under provisions of Atrocity Act is also involved and order sheet discloses that in-spite of taking coercive steps from 6-2-2021 to 25-2-2021, notices to respondent No.2 were not served. Hence case proceeded further as per law.

7) Heard the arguments of both the sides and also perused the records.

8) Now the points that arise for my consideration is;

1. ***Whether bail application filed by the petitioner/accused No.3 U/Sec. 439 of Cr.P.C. deserves to be allowed? What Order?***

9) My finding on the above points are as under;

Point No.1 :- In the negative.

Point No.2 :- As per for the following;

REASONS

10) **Point No.1:-**This is the split-up charge-sheet filed by Yadgiri Rural Police Station against accused Nos.3 and 5 alleging that they have committed the offences punishable under Sections 143, 147, 148, 302, 201 R/w Section 149 of IPC and under Sections 3(1)(x), 3(2)(v) of SC/ST (P.A.) Act, 1989.

11) On careful perusal of the bail application ground No.5, it is stated that accused No.3 was granted bail earlier and accused No.3 was arrested in another case, which was pending before Yeravada of Pune, which was acquitted. Thereafter petitioner No.3 arrested and remanded to J.C. and accused No.3 is in judicial custody since last 5 years. **This itself indicates the fact that the present petitioner i.e., accused No.3 is not only a habitual offender, but also habitual to crime involving in other cases also.** In addition to that it is a case of jumping bail and now accused No.3 cannot seek bail as a matter of right.

12) On careful perusal of the charge-sheet, it is seen that the offences alleged is registered under the provisions of Atrocity Act along-with other offences and as discussed earlier, notice was issued to the aggrieved the 2nd respondent and though notice was issued to the aggrieved on several occasions, the same was not served and accordingly the detail reports are also enclosed.

13) On careful perusal of the charge-sheet, it is seen that accused Nos.1, 7 and 8 belongs to Muslim community, accused No.2 belongs to Waddar community, accused No.3 belongs to Madarasi, accused No.4 belongs to Hadapada and accused Nos.5 and 6 belongs to Brahman community and deceased belongs to scheduled caste.

14) Charge-sheet also discloses the fact that accused Nos.1 to 7 are in the habit of pick-pocketing and deceased was also in the habit of same pick-pocketing and as such, all the accused Nos.1 to 7 and the deceased are known to each other.

15) Charge-sheet also discloses the fact that on 22-5-2012 CW.13 met with an accident and he was admitted by Cws.11 and 12 to District Hospital, Yadgiri. To see CW.13 Raju in the hospital, accused Nos.1 to 7 had been to the said hospital on the same day night. After hearing the news of the accident, the deceased Amar also had been to the

hospital to see his friend Raju and when the deceased Amar was near the gate of the hospital, accused No.1 told the deceased Amar Kamble that a day before yesterday he pick-pocketed a sum of Rs.50,000/- and that amount was not distributed to the other accused and the same was utilized by the deceased alone and accordingly started abusing deceased Amar and accused Nos.1 to 6 started assaulted deceased Amar with their hands.

16) Charge-sheet also discloses the fact that when CWs.11, 12 and 14 enquired accused Nos.1 to 6 as to why they were assaulting the said Amar the deceased and when they were advising, it is accused No.1 who told the other accused to carry the said Amar to Tanagundi, where they can enquire the said deceased etc and all the accused Nos.1 to 6 together taken the said Amar in a passenger auto to Tanagundi.

17) Charge-sheet also discloses the fact that it is accused No.1 who in-front of his house on the same day night assaulted deceased Amar with hands and also stabbed the said Amar by using the horn of the deer on his chest and also assaulted with an iron rod and also by using other deadly weapons and at that time, accused Nos.2 to 7 also started assaulted deceased Amar with their hands. Charge-sheet also discloses that when the deceased Amar started asking the water, at that point of time when accused No.5 provided the water, the said Amar died at the spot.

18) Charge-sheet also discloses the fact that all the accused Nos.1 to 7 in order to conceal the evidence of murder and to destroy the evidence, buried the dead-body in the unused well which is situated adjacent to the land of accused No.1 and again accused No.1 called accused No.8 and on 23-5-2015 during night, accused Nos.1, 7 and 8 exhumed the dead body which was buried and again with an intention to destroy the evidence, **cut the dead body in to pieces and set fire by using fuel and petrol and thereby destroyed the evidence.**

19) So, with these allegations charge-sheet came to be filed alleging that accused Nos.1, 3 to 7 have committed the offences punishable under Sections 143, 147, 148, 302, 201 R/w Section 149 of IPC and under Sections 3(1)(x), 3(2)(v) of SC/ST (P.A.)

Act, 1989 and accused No.2 has committed the offences punishable under Sections 143, 147, 148, 302, 201 R/w Section 149 of IPC.

20) Admittedly, accused No.3/petitioner herein belongs to Pune, Maharashtra and he has no permanent abode and avocation.

21) Charge-sheet reveals the fact that in addition to committing murder of deceased Amar, to destroy the evidence, accused adopted their own tactics i.e., initially they buried the dead-body in the unused well and thereafter exhumed the dead body which was buried and cut it in to pieces and set fire by using fuel and petrol.

23) The offences alleged is one under Sections 143, 147, 148, 302, 201 R/w Section 149 of IPC and under Sections 3(1)(x), 3(2)(v) of SC/ST (P.A.) Act, 1989, which is not only heinous, but also punishable with capital punishment like death or life.

24) Considering the facts and circumstances of the case, heinousness of the offence, length of punishment prescribed for the said offences, **the way in which all the accused persons treated dead-body, this is not a fit case to grant bail that too in a case where accused No.3 jumped bail and he cannot seek bail as a matter of right.**

25) If bail is granted at this stage, there is every chances of he absconding, threatening the complainant and tampering the prosecution witnesses and hampering the trial. This bail application lacks bonafides and it deserves to be rejected. Hence, I answer **point No.1 in the negative.**

26) **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.3 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 **22nd** day of **March, 2021**).

(S. SRIDHARA)
Sessions Judge,
Yadgiri.