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S.C.No.68/2023

IN THE COURT OF THE DISTRICT AND SESSIONS
JUDGE, YADGIRI

Dated this the 20th day of February, 2024

PRESENT

Smt.B.S.Rekha B.A.LAW., LL.M.,
District and Sessions Judge,
Yadgiri.

S.C. No.68/2023

Complainant:

The State by Yadgiri Town P.S.

(By Public Prosecutor, Yadgiri)

Vs.

Accused No.1:

Mohammed Anas Abdul Khan @ Rabbani
S/o Mohammed Amjat Khan,
Age: 20 years, Occ: Cook,
R/o. Near Haimad Hotel,
Riyasat Nagar, Santosh
Nagar,
Hyderabad

(By Sri. C.S.Malipatil, Advocate)

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ORDER

This bail application is filed by the accused No.1
under Section 439 of the Code of Criminal Procedure



('Cr.P.C.' for short), praying this Court to enlarge him on regular bail by accepting surety in Cr.No.75/2023 of Yadgiri Town police station (S.C.No.68/2023) in connection with the offences punishable U/Secs.143, 147, 148, 307, 302, 504, 114 R/w Section 149 of IPC.

2) In the bail application, the accused No.1 contended that, he is innocent, the offences alleged against him are false and baseless, he is a cook by profession, he has been falsely implicated in this case on false allegation. He is in judicial custody from 15.05.2023. He is the only earning member of his family, if he is not released on bail, his entire family will be put to hardship. He is the permanent resident of address shown in the cause title, he has not attacked the deceased and therefore, there is no mens-rea. There was no occasion to kill the deceased. Already the investigation is completed and charge sheet is filed. Therefore, he is not required for interrogation. He is ready to abide by the conditions that may be imposed by this court and ready to furnish surety and prayed to enlarge him on regular bail by accepting surety.

3) The learned Public Prosecutor opposed the bail application by filing objection and contended that,



the material collected and available in the charge-sheet, reveals prima-facie case against the accused No.1. If the accused No.1 is released on bail, he may abscond, he may commit similar offence, he may tamper the prosecution witnesses and hence, prayed for rejecting the bail application of accused No.1, filed under Section 439 of Cr.P.C.

4) The following points arise for my determination:

i. Whether the accused No.1 has made out good grounds for an order of regular bail?

ii. What order?

5) Heard arguments of the learned counsel for the accused No.1 and learned Public Prosecutor.

6) My findings on the above points are as follows:

Point No.1 : In the Affirmative.

**Point No.2 : As per final order;
for the following;**

REASONS

7) **POINT No.1:** Yadgiri Town Police based on the



complaint filed by one Chandrashekhar Guttedar S/o Ramayya Guttedar registered a Cr.No.75/2023 and on completion of the investigation, he filed charge-sheet against the present accused No.1 and other accused alleging the offences punishable under Sections 143, 147, 148, 307, 302, 504, 114 R/w Section 149 of IPC.

8) In the charge sheet, it is alleged that, on 14.05.2023 at about 10-30 p.m, when CW-1 had been to move his car which was parked near S.K.M. Garage, he noticed some other vehicles parked in such a position that, it was impossible for him to move his car from the place where it was parked, as such, CW-1 went inside Royal Garden Hotel under an impression that, the said vehicles which were parked across his car, might be of the customers of the said hotel and asked accused No.2 Abdul Sattar, the owner of the said hotel to tell his customers to move their vehicles from the place where they have parked, at that time, accused No.2 enraged on him by saying as “ಏಯ್ ಹೋಗಲೇ ಇಲ್ಲೆಂದ, ಇಲ್ಲಾಂದ್ರೆ ನಮ್ಮ ಹುಡುಗರಿಗೆ ಕರೆದು ನಿನಗೆ ಹೊಡೆಸಿ ಸೀದಾ ಮಾಡಬೇಕಾಗುತ್ತದೆ”, at that time, accused Nos.1, 3 to 6 joined accused No.2 and abused CW-1 in filthy language by saying as “ಏಯ್ ರಾಂಡಕೇ ಯಹಾಸೆ ಚುಪ್ ಜಾ ನಹಿತೋ ತೆರೆಕೋ ತುಕಡೆ ತುಕಡೆ ಕರಕೆ ವೆಕತೇ



ಹೈ” and noticing the same, deceased Srinivas and CW-6 to 8 who had been to the said hotel to have dinner, tried to pacify the matter, at that time, accused No.1 gone inside the hotel, brought a knife with an intention to kill CW-1 and he pierced the knife towards CW-1 and while escaping, CW-1 received injury on his left index finger and it is stated that, when accused No.1 again attempted to assault, Srinivas dragged CW-1 aside at that time, accused No.1 enraged on the deceased by saying as “ತುಮ್ ಕೌನ್ ಬೆ ಸಾಲೆ, ಬೀಜ್ ಮೆ ಕೈಕು ಆತೆ, ಪಹಲೆ ತುಮ್‌ಕೋ ಖತಮ್ ಕರಕೆ, ಬಾದಮೆ ಉಸ್ಕು ಖತಮ್ ಕರತಾಹುಂ” and by saying so, he assaulted with a knife on the left rib of Srinivas, due to which, he sustained bleeding injury and breathed his last.

9) Learned counsel for accused No.1 in addition to the grounds urged in the bail application has further argued that, the petitioner is nothing to do with the alleged offences. He is innocent of the alleged incident. The earlier bail application was rejected. There is variation in the statement of witnesses. The accused No.2 filed bail application which came to be allowed. The other accused are already on bail. He is in J.C from 15.05.2023. He is cook by profession and the family



debts of him. He is permanent resident of Hyderabad. He is ready to furnish surety.

10) In the objection it is contended that there is prima facie material. He is the main accused and he is from other state. The witnesses have given statement. Since it is heinous offences, the prosecution prays to reject the bail application.

11) In this case, the complainant are parked his car and went inside the hotel. When he came back, he found that there are cars parked and he was unable to remove the car and requested the accused No.1 that he is not aware of the vehicles belongs to whom and the complainant stated that the vehicles pertains to hotel customers and the complainant abused. At that time, 4-5 members came and stated that what is happening. At that time, the accused No.1 threatened him and abused. At that time, one Srinivas and Cw.6 to Cw.8 pacified the quarrel. It could be ascertained that this accused No.1 by holding the knife with an intention to murder Cw.1 and he was escaped, when Srinivas came across and he stamped him. It is undisputed that the death occurred with this injury. This person went to pacify the quarrel.



The incident occurred at spur of the movement and there was no motive and preparation behind this incident. The death is due to the same injury sustained as per P.M report.

12) In this case, the accused No.2 is released on bail by Hon'ble High Court of Karnataka. This case is registered on 14.05.2023. In this case, the accused after the incident came enraged and he went inside the hotel and brought knife with an intention to kill Cw.1. It is also observed in the order passed by the Hon'ble High Court that it is the main role of the accused No.1 in this murder. However, in this case, the investigation is also completed. Further, there is no mens-rea behind the incident. It was occurred at the spur of the movement. The person who intervened to pacify was murdered. Thus in my opinion as the other accused are released on bail and this incident was occurred at spur of the movement and the accused is no-more required for any investigation purpose, the only apprehension of the prosecution is that if the bail is granted, the accused may commit similar offences and he may abscond, he may hamper the trial, tamper the prosecution witnesses. These apprehension can be meted out by imposing certain stringent



conditions. With these observations, I answer point No.1 in the '***Affirmative***'.

13) Point No.2 In view of my findings on point No.1, I proceed to pass the following:

ORDER

The petition filed by the accused No.1 under Section 439 of Cr.P.C., is hereby allowed.

The Accused No.1 is ordered to be released on regular bail in Crime No.75/2023, registered by the respondent-police, on executing personal bonds for Rs.1,00,000/- with two surety for the like-sum to the satisfaction of concerned Court, on the following conditions;

- 1) He shall not give threat or tamper the prosecution witnesses.
- 2) He shall not leave the jurisdiction of this Court without prior permission of this Court.



- 3) He shall appear before the concerned Court on every date of hearing without fail.
- 4) He shall not indulge in committing similar offences in future.

He shall furnish their address proof and I.D. proof while furnishing surety.

(Dictated to the Stenographer Grade - III, directly on computer, corrected it, taken out print, signed and then pronounced by me in the open Court on this the **20th day of February, 2024**).

(B.S. Rekha)

District and Sessions Judge,
Yadgiri.