

(2017) 02 KAR CK 0047
In the Karnataka High Court
Case No : 200100 of 2017

Amaresh S/o chandramanna Mundaragi	APPELLANT
Vs	
The State of Karnataka	RESPONDENT

Date of Decision : 03-02-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 439](#) - Special powers of High Court or Court of Session regarding bail
[Indian Penal Code, 1860](#), [Section 302](#),
[S](#)

Citation : (2017) 02 KAR CK 0047

Hon'ble Judges : B. A. Patil

Bench : SINGLE BENCH

Advocate : Shivanand V. Pattanshetti, P.S.Patil

Final Decision : Dismissed

Judgement

1. This petition is filed by the petitioner/accused No.4 under Section 439 of Cr.P.C., seeking regular bail in Crime No.75/2016 of Lingasugur Police Station, Raichur, registered for the offences punishable under Sections 143, 147, 148, 447, 504, 323, 302 r/w 149 of IPC.

2. Brief facts leading to filing of the complaint are that, on 25.03.2016 at about 10.00 p.m., when the complainant was in the house, one Hanumantha and Tayappa namely, accused Nos.1 and 3 came to the house and asked to provide drinking water. When the mother of the complainant went inside to fetch water, both the accused abused her in filthy language as she caused delay in providing water. When the complainant questioned the accused as to why they are abusing his mother, they abused him and went away stating that they will come back along with others. After some time, the said accused persons along with other accused came towards his house shouting in loud voice and on hearing their voice, the complainant, his mother and brother went towards Devarabhapur leaving his wife, sister, grandmother and father. It is further alleged that they

returned to the house at 4.00 a.m., on the next morning and enquired his wife and sister. They narrated the incident that the accused persons came to the house at about 11.30 p.m., and assaulted the father of the complainant with stones and as a result of the same he died. On the basis of the said complaint, a case was registered against the accused persons.

3. I have heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for respondent-State.

4. The main grounds urged by the learned counsel for petitioner are that the petitioner is innocent and he has not committed any offence alleged against him. Petitioner was not having any motive to commit the alleged offence and at the most the only overt act which is there against the accused-petitioner is that he has assaulted the deceased with stone and on similar grounds accused Nos.3 and 5 to 11 have been granted bail, on the ground of parity, the petitioner is also entitled to be released on bail. It is also contended that the petitioner hails from a respectable family and he has got both movable and immovable properties, therefore, there is no chance of he being absconded. It is further contended that if the petitioner is released on bail, he is ready to abide by the conditions to be imposed by this Court and he is ready to offer sureties. On these grounds, he prays for allowing the petition.

5. On the contrary, learned High Court Government Pleader appearing for the respondent-State vehemently argued contending that the petitioner has accompanied accused No.1 in the first instance and thereafter, again they have come to the place of accident, they have actually participated in the crime and there are circumstances to show that the petitioner has also assaulted the deceased with stone and has caused the death of the deceased. He has further contended that there are eyewitnesses to the alleged incident. The present petitioner will not stand on similar footing as that of the accused-petitioner who have been released on bail. At this juncture, if the petitioner is released on bail, he may abscond and he may not be available for trial. On these grounds, he prays for dismissal of the petition.

6. I have gone through the copy of the FIR, complaint and other materials produced along with the petition. As could be seen from the complaint, it reveals that the alleged incident has taken place at two times one at 10:00 p.m. and thereafter the accused persons have come to the place of incident and there accused Nos.3 and 5 have assaulted the deceased with club on his right hand and other parts of the body and thereafter, Adeppa and the petitioner Amaresh have assaulted the deceased with stone and other accused persons have also assaulted the deceased with hands and legs. The material which has been produced it indicates that the death of the deceased has taken place due to shock and hemorrhage as a result of injury to vital parts of the body i.e. lungs. When death has been caused because of the injuries sustained by the deceased and prima facie material discloses the overt acts of accused Adeppa and the petitioner Amaresh who have assaulted the deceased with stone. When that

being the case, the grounds of parity is also not going to be attracted and prosecution has placed prima facie materials to show that the accused-petitioner has involved in the alleged crime. Under such circumstances, I feel it is not just and proper to release the accused on bail. Hence, the petition is dismissed.