

(2023) 10 KAR CK 0004
In the Karnataka High Court
Case No : Criminal Petition No. 2339 Of 2023

Chetan @ Shivu @ Kariya Chetu

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 05-10-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 201, 302, 506
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2023) 10 KAR CK 0004

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Deenabandhu Rai N, Sowmya R

Final Decision : Allowed

Judgement

S Vishwajith Shetty, J

1. Accused No.2 in S.C.No.908/2022 pending before the Court of LVIII Additional City Civil and Sessions Judge, Bangalore arising out of Crime No.2/2022 registered by R.M.C. Yard Police Station, Bengaluru City for the offences punishable under Sections 302, 201, 120B and 506 read with Section 34 of IPC is before this Court under Section 439 of Cr.P.C., seeking regular bail.

2. Heard the learned counsel for the parties.

3. On the complaint of Anniyamma W/o Rajappa dated 07.01.2022, FIR in Crime No.2/2022 was registered by R.M.C. Yard Police Station, Bengaluru City initially for the offences punishable under Section 302 read with Section 34 of IPC against 3 to 4 unknown persons. In the complaint, it is averred that deceased Chandra was the brother of the complainant and he was married to Jennifer, who had recently deserted him. About a week prior to the date of complaint, Chandra had left the house and he did not have any mobile phone with him. On 07.01.2022, the complainant was informed by Ravi from A.P.M.C. Yard that her brother Chandra was lying in a mini bus, which was parked behind Orion

Distilleies. At about 5:00 p.m., the complainant went to the spot and found the dead body of her brother. On enquiry, she was informed that about three to four persons had assaulted him at about 12:00 in the noon and it is in this background she had approached the Police and lodged the complaint which had resulted in registering FIR in Crime No.2/2022 by R.M.C. Yard Police Station against 3-4 unknown persons. During the course of investigation, the petitioner was arrested on 17.01.2022. Investigation in the case is completed and charge sheet has been filed for the aforesaid offences against three persons and the petitioner is arrayed as accused No.2 in the charge sheet. His bail application filed before the Court of the LVIII Additional City Civil and Sessions Judge, Bengaluru in CrI.Misc.No.1230/2023 was dismissed on 17.02.2023. It is under these circumstances, the petitioner is before this Court.

4. Learned counsel appearing for the petitioner submits that the charge sheet material would go to show that five persons were in the spot at the time of incident but the charge sheet has been filed only against three persons. He submits that there is no seizure from the petitioner and the weapon used to commit the crime was found lying in the bus itself. He submits that the petitioner is in custody since 17.01.2022. Investigation in the case is completed and the charge sheet has been filed and prays to allow the petition.

5. Per contra, learned HCGP has opposed the bail application and submits that there are witnesses who have seen the accused persons at the crime spot and accordingly, prays to dismiss the petition.

6. FIR in Crime No.2/2022 was initially registered against 3 to 4 unknown persons for offences punishable under Section 302 read with Section 34 of IPC. During the course of investigation, the petitioner was arrested on 17.01.2022. Investigation in the case is completed and the charge sheet has been filed. As per the charge sheet allegation, accused No.1 had some ill will against the deceased Chandra and therefore, he had conspired with other accused to commit the murder of Chandra. On 07.01.2022 at about 10:30 a.m., they went in search of Chandra and came to know that he was sleeping in a mini tempo, which was parked behind Orion Distilleies. At about 11:30 a.m., they reached the spot and accused No.1 allegedly boarded the bus with a iron rod which was lying near the bus and had assaulted Chandra on his head, face and other parts of the body. Thereafter, allegedly accused Nos.2 and 3 also boarded the bus and assaulted deceased Chandra with the very same iron rod. However, the statement of eyewitnesses would go to show that they had seen only one person boarding the bus with the iron rod. The said eyewitnesses have also stated that there were five persons present at the crime. The seizure mahazar after arrest of accused No.2 would go to show that only his clothes have been seized at his instance and even the said clothes did not have any blood stains on it. The petitioner is in custody from 17.01.2022 onwards. Investigation in the case is completed and the charge sheet has been filed. Undisputedly, the petitioner has no criminal antecedents. Under the circumstances, I am of the view that the petitioner has

made out a prima facie case for grant of regular bail. Accordingly, the following:

ORDER

Criminal petition is allowed. The petitioner-accused No.2 is directed to be enlarged on bail in S.C.No.908/2022 pending before the Court of LVIII Additional City Civil and Sessions Judge, Bangalore arising out of Crime No.2/2022 of R.M.C. Yard Police, Bengaluru City, registered for the offences punishable under Sections 302, 201, 120B and 506 read with Section 34 of IPC, subject to the following conditions:

1. Petitioner shall execute personal bond for a sum of Rs.1,00,000/- (One Lakh only) with two sureties for the likesum, to the satisfaction of the jurisdictional Court;
2. The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;
3. The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;
4. The petitioner shall not involve in similar offences in future;
5. The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.