

(2023) 04 KAR CK 0017
In the Karnataka High Court
Case No : Criminal Petition No. 2024 Of 2023

Gagan

APPELLANT

Vs

State Of Karnataka By Jigank Police Station

RESPONDENT

Date of Decision : 21-04-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 149, 201, 302

Citation : (2023) 04 KAR CK 0017

Hon'ble Judges : K. Natarajan, J

Bench : Single Bench

Advocate : Hari Prasad N, B.J. Rohit

Final Decision : Allowed

Judgement

K.Natarajan, J

1. This petition is filed by the petitioner-accused No.2 under Section 439 of Cr.P.C. for granting bail in Crime No.51/2022 registered by the respondent-Jigani police for the offences punishable under Sections 201, 302 read with Section 149 of IPC.

2. Heard the arguments of learned counsel for the petitioner and learned High Court Government Pleader for respondent-State.

3. The case of prosecution is that one Suma, the wife of deceased Manjappa, filed a complaint on 24.03.2022 before the police alleging that, on 16.03.2022 at 7.00 p.m., when herself and her husband were near Celebrity Layout, an unknown person, said to be accused No.1, came on motor cycle and picked up quarrel with her deceased husband telling that her husband said to be stolen agricultural equipments from the garden area. Then accused No.1 called other accused persons to the spot, where the petitioner-accused No.2 and another accused came, they started the assaulting the deceased. At that time, at the request of the deceased, the complainant left the spot. Later, the deceased

husband came to home sustaining injuries and he died in the house. After registering the FIR, the police arrested the petitioner and others and remanded to judicial custody. The previous bail petition of the petitioner was rejected by this Court. Now, the petitioner has come up before this Court with the additional grounds.

4. Learned counsel for the petitioner has contended that most of the accused persons were granted bail by the Co-ordinate Bench and accused NO.1 is also granted bail by the Hon'ble Supreme Court. This Court has also granted bail to one of the accused. The petitioner-accused No.2 is in custody for more than one year and he is ready to abide by any condition that may be imposed by this Court. Hence, prayed for granting bail.

5. Per contra, learned High Court Government Pleader object the criminal petition.

6. Having heard the arguments of learned counsel for the parties, perused the records, which reveal that the name of the petitioner was not mentioned in the FIR and, subsequently, on the voluntary statement of accused No.1, this petitioner-accused No.2 has been implicated. It is seen that as per the averments made by the petitioner, he himself assaulted on the head of the deceased with club, which caused the fatal injury. The postmortem examination report also reveals that the deceased died due to the multiple injuries. The co-accused persons have been granted bail by the Co-ordinate Bench and the co-accused persons - Laxman Reddy and Muniraju were also granted bail by this Court. Accused No.1 has been granted bail by the Hon'ble Supreme Court in SLP (Criminal) No.12068/2022 on 14.03.2023. Therefore, I am of the view that, when the petitioner is in custody for more than one year and all the co-accused are granted bail, he is also entitled for bail, on the ground of parity.

8. Accordingly, the petition is allowed.

The trial Court/Committal Court is directed to release the petitioner-accused No.2 on bail in Crime No.51/2022 registered by the respondent-Jigani police for the offences punishable under Sections 201, 302 read with Section 149 of IPC, subject to the following conditions:

- (i) Petitioner shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakh only) with two sureties for the likesum to the satisfaction of the trial Court/Committal Court;
- (ii) Petitioner shall not indulge in similar offences strictly;
- (iii) Petitioner shall not tamper with the prosecution witnesses directly/ indirectly;
- (iv) Petitioner shall take trial without causing any delay.
- (v) Petitioner shall not leave the jurisdiction without prior permission of the Court.