

(2023) 09 KAR CK 0042
In the Karnataka High Court
Case No : Criminal Petition No. 4509 Of 2023

Kumara

APPELLANT

Vs

State Of Karnataka Represented By State Public Prosecutor
For Police, High Court Buildings Bengaluru Through Inspector
Railway Police Station, Davanagere -560001

RESPONDENT

Date of Decision : 14-09-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 201, 302
Code Of Criminal Procedure, 1973 — Section 438

Citation : (2023) 09 KAR CK 0042

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Koti Siddanagouda, Sowmya.R

Final Decision : Allowed

Judgement

S Vishwajith Shetty, J

1. Accused No.1, in Crime No.9/2022 registered by Davanagere Railway Police Station for offences punishable under Sections 302, 201 r/w Section 34 of IPC, is before this Court under Section 438 of Cr.P.C.

2. Heard the learned counsel for the parties.

3. On the complaint of Smt.B.G Virupamma dated 10.03.2022, FIR in Crime No.9/2022 was registered by Davanagere Railway Police Station against the petitioner and three others for the aforesaid offences. In the complaint, it is averred that the complainant is the mother of deceased B.G.Shashikanth. Deceased B.G. Shashikanth and accused No.2 were good friends and the complainant had advised her son not to roam around with accused No.2 and his friends. On 12.10.2021, the complainant had handed over a sum of Rs.28,000/- to her son B.G.Shashikanth for the purpose of purchase of a vehicle and B.G.Shashikanth had left the house with the said money. Thereafter, the

complainant was informed that B.G.Shashikanth had committed suicide by jumping under the train. Immediately, the complainant went to the railway station and thereafter to the hospital, where the dead body of B.G.Shashikanth was kept. The accused persons, who were present there, informed the complainant that B.G.Shashikanth had lost the money in gambling and therefore, he committed suicide. Thereafter, the body was taken to Kurnool in Andhra Pradesh and was cremated. It is further averred in the complaint that B.G.Shashikanth was in the habit of playing cards along with the accused persons. In the complaint it is stated that on 12.10.2021, the accused persons had taken the money which her son B.G.Shashikanth had and thereafter, committed his murder and thrown the dead body on the railway track. It is under these circumstances, she had approached the police on 10.03.2022 and lodged the complaint. Apprehending arrest in the said case, the petitioner had filed Crl.Misc.No.12/2023 in the Court of Prl. District and Sessions Judge, Davanagere, which was dismissed on 01.02.2023. Therefore, he is before this Court.

4. Learned counsel for the petitioner has reiterated the grounds urged in the petition and submits that there is a delay of 5 months in lodging the complaint.

5. Per contra, learned HCGP opposed the bail application.

6. The material on record goes to show that the dead body of deceased B.G.Shashikanth was recovered on 13.10.2021 on the railway track and thereafter, the complainant and her family members had taken the dead body to Kurnool at Andhra Pradesh and cremated the same. After a period of 5 months thereafter, the complainant approached the police and lodged the complaint, which had resulted in registering FIR in Crime No.9/2022 against the petitioner and others. The complaint is lodged on suspicion against the accused persons. There is no other material to connect the accused persons to the crime. The post-mortem report made available by learned HCGP would go to show that death of B.G.Shashikanth was due to sudden haemorrhagic shock as well as fatal injuries sustained consequent upon separation of the body into two halves at the abdominal level. Under these circumstances, prima facie doubt arises with regard to the genuineness of the suspicion raised by the complainant. Therefore, I am of the view that the petitioner has made out a case for grant of anticipatory bail.

Accordingly, following:

ORDER

The petition is allowed. The respondent-Police or any other police in the state of Karnataka are directed to release the petitioner in the event of his arrest in Crime No.9/2022 registered by Davanagere Railway Police Station, Davanagere for the offences punishable under Sections 302, 201 r/w Section 34 of IPC, subject to the following conditions.

1. The petitioner shall appear before the Investigating Officer within 15 days from the date of receipt of the copy of this Order and shall execute a personal

bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) with two sureties for the likesum to the satisfaction of the Investigating Officer.

2. Petitioner shall regularly appear before the trial Court without fail unless exempted by the trial Court for valid reasons.

3. Petitioner shall not tamper with the prosecution witness and he shall co-operate with the police for investigation and appear before them whenever called upon.

4. The petitioner shall not involve in similar offences in future.