

(2022) 08 KAR CK 0015

In the Karnataka High Court

Case No : Criminal Petition No. 4765, 6769 Of 2022 In Criminal Petition No. 6769 Of 2022

Kumara V

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 11-08-2022

Acts Referred:

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

Citation : (2022) 08 KAR CK 0015

Hon'ble Judges : K. Natarajan, J

Bench : Single Bench

Advocate : Mahesha M, R.D. Renukaradhya, Nithya V, Gaurav S

Final Decision : Allowed

Judgement

K. Natarajan, J

1. Criminal Petition No.6769/2022 is filed by accused No.3 and Criminal Petition No.4765/2022 is filed by accused No.2 under Section 439 of Cr.P.C., for granting regular bail in Crime No.173/2021 registered by K.R.Sagara P.S. Mandya District, for the offences punishable under Sections 302, 201 read with Section 34 IPC, now pending on the file of III Additional District and Sessions Judge, Mandya, sitting at Srirangapatna.

2. Heard the learned counsel appearing for the petitioners and the learned High Court Government Pleader appearing for the Respondent-State.

3. The case of the prosecution is that, on the complaint lodged by the sister of the deceased namely Geetha, police have registered UDR No.40/2021 on 27-2-2021 and after the investigation, they came to know that deceased was died due to homicidal death due to assault by accused No.1 to 3 on 26-2-2021. Therefore, PSI registered a suo-motu case against the petitioners in Crime No.173/2021 and during the investigation, these petitioners/accused 3 and 2

were arrested on 27-10-2021 and they have been remanded to judicial custody and their bail petitions came to be rejected by the Sessions Court. Hence, they are before this Court.

4. Further case of the prosecution is that on 26-2-2021 A1 to 3 took the deceased, all of them were drunk alcohol and subsequently there was a quarrel between them. Accused No.1 assaulted the deceased with club on his head and caused injuries and accused Nos. 2 and 3 said to have assaulted him with hands. When the deceased become unconscious, they left him. Subsequently, police after investigation filed the chargesheet for the aforesaid offences.

5. Having heard the arguments of learned counsel for the petitioner and the learned HCGP, and perusal of the records, reveals that, especially, UDR does not speaks about any complaint against these petitioners. However, complainant suspected accused No.1-Dinesh would have committed murder of her brother. The police registered a case in the month of August 2021, even though the alleged offence was occurred on 27-2-2021. As per Post mortem report, the death was caused due to head injury sustained by the deceased that was assaulted by accused No.1. Accused No.1 was granted bail by the Co-ordinate Bench of this Court on 30-5-2022 in CrI.P.No.3797/2022. The allegation against these petitioners is, they are said to have assaulted the deceased with hands. The main accused was granted regular bail by the Co-ordinate Bench of this Court and the allegation against these petitioners is that they assaulted deceased with hands and they are in custody almost 10 months. Investigation has been completed and chargesheet is filed. Therefore, these petitioners are also entitled for bail on the ground of parity. Therefore, without expressing any opinion on the merits of the case and by imposing certain conditions, if the petitioners/accused are granted bail, no prejudice would be caused to the case of the prosecution. Hence, I pass the following:

ORDER

The criminal petitions are allowed.

The petitioners/accused Nos. 3 and 2 shall be released on bail in Crime No.173/2021 registered by K.R.Sagara P.S., Mandya, for the alleged offences, which is now pending before the III Additional District and Sessions Judge, Mandya, sitting at Srirangapatna in SC No.5020/2022, subject to the following conditions:-

- i) Petitioners shall execute personal bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) each with two sureties for like-sum to the satisfaction of the trial Court;
- ii) Petitioners shall not tamper with the prosecution witnesses directly or indirectly;
- iii) Petitioners shall not indulge themselves in similar offences strictly;

- iv) Petitioners shall not leave the jurisdiction of this Court without prior permission.
- v) Petitioners shall appear before the court to take trial.