

(2023) 09 KAR CK 0048
In the Karnataka High Court
Case No : Criminal Petition No. 4990 Of 2023

Madhusudhan @ Three Not Seven @ Moda	APPELLANT
Vs	
State By Karnataka By Tumakuru, Town Police Tumakur - 572101, Tumkur Taluk, Tumkur District, Represented By Police Inspector	RESPONDENT

Date of Decision : 20-09-2023

Acts Referred:

Indian Penal Code, 1860 — Section 302

Citation : (2023) 09 KAR CK 0048

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : N. Suresha, N. Anitha Girish

Final Decision : Allowed

Judgement

S Vishwajith Shetty, J

1. Accused in Crime No.101/2020 registered by Tumkur Town Police Station for the offence punishable under Section 302 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC' for short) is before this Court seeking regular bail.

2. Heard the learned counsel for the parties.

3. On the complaint of Salman S/o. Late Aslam dated 08.07.2020, Tumkur Town Police Station have registered FIR in Crime No.101/2020 against the petitioner herein for the aforesaid offence. In the complaint it is averred that on 08.07.2020 at about 1.30 p.m., the complainant was informed by one Imran Pasha that his uncle - Dadapeer was assaulted by the petitioner - Madhusudhan and as a result of the assault, Dadapeer had died. Immediately, complainant went to the spot and found the dead body of his uncle - Dadapeer. On enquiry, the complainant was informed that petitioner and Dadapeer had fought in front of the tea shop of petitioner's sister since Dadapeer had allegedly not paid for the tea consumed in petitioner's sister's shop. Petitioner allegedly had assaulted

Dadapeer on his face with his hand and as a result, he fell down and suffered grievous injuries on his head and had succumbed to the same. In this background, a complaint was lodged, which had resulted in registering FIR in Crime No.101/2020 against the petitioner for the aforesaid offence.

4. During the course of investigation, petitioner was arrested on 09.07.2020. Investigation in the case is completed and charge sheet has been filed. Petitioner's bail application filed before the Court of VI Additional District and Sessions Judge, Tumkur in CrI. Misc. No.687/2022 was dismissed on 19.05.2022. Under these circumstances, the petitioner is before this Court.

5. Learned counsel for the petitioner having reiterated the grounds urged in the petition prays to allow the petition.

6. Learned HCGP has opposed the bail application.

7. From the complaint averments as well as the charge sheet allegations it is seen that on 08.07.2020, the petitioner and Dadapeer had fought in front of the tea shop of petitioner's sister. Dadapeer allegedly had consumed tea in the tea shop of petitioner's sister and had not paid for the same, when it was questioned by the petitioner, deceased had quarreled with the petitioner. The petitioner allegedly had assaulted Dadapeer on his face with his hand and at that time, Dadapeer took out a knife from his pocket and assaulted with the same on petitioner's left cheek. Petitioner allegedly pushed Dadapeer and as a result, he fell down and sustained grievous injuries on the head and had succumbed to the same. From the aforesaid material on record it is seen that the incident had taken place at a spur of moment and the petitioner was not armed with any weapon and on the other hand, it was the deceased, who was armed with the weapon. There are no allegations against the petitioner about assaulting the deceased on the vital part of the body. Deceased - Dadapeer had fallen when the petitioner had pushed him after Dadapeer had assaulted the petitioner with a knife. Investigation in the case is completed and charge sheet has been filed. Petitioner, who has no criminal antecedents is in custody from 09.07.2020. Under these circumstances, I am of the view that the petitioner's prayer for grant of regular bail is required to be answered affirmatively. Accordingly, the following:

ORDER

The petition is allowed.

The petitioner is directed to be enlarged on bail in Crime No.101/2020 registered by Tumkur Town Police Station for the offence punishable under Section 302 of IPC, subject to the following conditions:

- a) Petitioner shall execute personal bond for a sum of Rs.1,00,000/- (one lakh) with two sureties for the likesum, to the satisfaction of the jurisdictional Court;
- b) 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;

- c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;
- d) The petitioner shall not involve in similar offences in future.