

(2017) 01 KAR CK 0369
In the Karnataka High Court
Case No : 200057 of 2017

Sandeep S/o Vijaykumar Biradar

APPELLANT

Vs

The State through Kamalanagar Police Station Dist. Bidar
now represented by Addl. SPP High Court of Karnataka

RESPONDENT

Date of Decision : 31-01-2017

Acts Referred:

Code of Criminal Procedure, 1973, Section 439 - Special powers of High Court or Court of Session regarding bail
Indian Penal Code, 1860, Section 302 - Punishment for mu

Citation : (2017) 01 KAR CK 0369

Hon'ble Judges : B. A. Patil

Bench : SINGLE BENCH

Advocate : Avinash A.Uploankar, Prabhugouda S. Patil

Final Decision : Allowed

Judgement

1. This petition is filed by the petitioner/accused No.1 under Section 439 of Cr.P.C., seeking regular bail in Crime No.148/2016 of Kamalanagar Police Station, Bidar, registered for the offences punishable under Section 302 of IPC.

2. Brief facts leading to filing of the complaint are that, on 7.11.2016 at about 6:00 a.m. the complainant received a phone call from one Kalyanrao informing that when he was on morning walk near the Government School, found one motorcycle parked near the wall of school. By seeing the motorcycle he went near the said compound wall of the school and found the dead body of the brother of the complainant Sunil with some injuries over the body. Immediately the complainant also went, saw the dead body, thereafter a complaint came to be lodged against unknown persons. During the course of investigation, accused persons have been apprehended. On the basis of the voluntary statement, they came to know the fact that the deceased has insulted the accused before his in-laws, in order to take the revenge; the accused persons have assaulted and have caused the murder.

3. I have heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for respondent-State.

4. The main grounds urged by the learned counsel for the petitioner are that there are no eyewitnesses to the alleged incident, except the voluntary statement of the accused nothing is thereon records to connect the accused. He has further contended that accused-petitioner is working as a teacher in Kittur Rani Chinnamma High School, Shahapur as such there is no chance of he being absconded. It is further contended that if the petitioner is released on bail, he is ready to abide by the conditions to be imposed by this Court and he is ready to offer sureties. On these grounds, he prays for allowing the petition.

5. On the contrary, learned High Court Government Pleader appearing for the respondent-State vehemently contended that the accused-petitioner has involved in a heinous offence of causing murder of the deceased and he may tamper with the prosecution witnesses. At this juncture, if the petitioner is released on bail, there is likelihood of he being absconded and he may not be available for trial. On these grounds, he prays for dismissal of the petition.

6. The records, which have been produced along with the petition, disclose the fact that complaint came to be filed against unknown persons on 07.11.2016 and subsequently on 09.11.2016 the accused persons have been apprehended and their statement has been recorded by the police. Whether the accused persons have given the voluntary statement as contended by the learned High Court Government Pleader is a matter, which has to be considered and appreciated only at the time of trial. When there are no eyewitnesses to the alleged incident and even by going through the entire material, which has been produced except the voluntary statement of the accused, prima facie there is nothing to connect the accused in this behalf. When the accused-petitioner is said to be working as a teacher and has got both movable and immovable property, therefore there is no likelihood of he being absconded and tampering the prosecution evidence. Under such circumstances, I feel that if the petitioner is released on bail by imposing some stringent conditions, it would safeguard the interest of the prosecution and it would meet the ends of justice.

7. For the aforementioned reasons, the petition is allowed and petitioner/accused No.1 is ordered to be released on bail, subject to the following conditions:

- i) The petitioner shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) with two solvent sureties for the likesum to the satisfaction of the jurisdictional Court;
- ii) The petitioner shall not indulge in hampering the investigation or tampering the prosecution witnesses;
- iii) The petitioner shall make himself available to the Investigating Officer as and when required;
- iv) The petitioner shall appear before the concerned Court regularly.