

(2021) 04 KAR CK 0026
In the Karnataka High Court
Case No : Criminal Petition No. 754 Of 2021

Shabaj Nasir @ Golden Shabaj

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 19-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 34, 109, 115, 118, 120(B), 143, 149, 201, 302

Citation : (2021) 04 KAR CK 0026

Hon'ble Judges : K. Natarajan, J

Bench : Single Bench

Advocate : M. Sriram, Rashmi Jadhav

Final Decision : Dismissed

Judgement

K. Natarajan, J

1. This petition is filed by petitioner-accused No.4 under Section 439 of Cr.P.C. for granting regular bail in Crime No.35/2020 registered by the

Thalaghattapura Police Station, for the offences punishable under Section 302 read with Section 34 of IPC. Subsequently, charge sheet was filed for

the offences punishable under Sections 143, 109, 115, 118, 120(B), 201, 302 read with Section 149 of IPC.

2. The case of the prosecution is that on the complaint of one Parvathi, wife of deceased who filed the complaint before the police on 14.02.2020

alleging that her husband went out on 14.02.2020 at 9.30 a.m. as his friend Mohammad had called over phone. Subsequently at about 1.30 p.m. she

came to know through the security guard that her husband has been murdered. She went and saw the incident and lodged the complaint before the

police stating that there was land dispute between her husband and Harikrishna,

the younger son and Shivaram, brother of the deceased. Her husband was going with other persons for settling the land dispute and they were having enmity against the husband of complainant. Accordingly, it is alleged that Accused No.1 and 2 said to have given supari to this petitioner by paying huge money for killing the deceased. The accused persons committed murder of her husband â?" Singanamale Madhava. After registering the case, the police arrested this petitioner on 09.06.2020 and remanded to judicial custody. The petitioner approached the Sessions Judge for bail, which came to be rejected. Hence, petitioner-accused No.4 is before this Court.

3. Learned counsel for the petitioner contended that the petitioner is innocent of the alleged offence. His name is not found in the FIR. He has been implicated in the case on the voluntary statement of the co-accused. The co-accused Nos.3, 5, 6, 7, 8, 9 and 11 have already granted by bail this Court. Therefore, on the ground on parity, this petitioner is also entitled for bail. This petitioner was arrested on 09.06.2020 and whereas, the statement of eye witnesses was recorded on 11.06.2020. Therefore, the same cannot be accepted. The petitioner is ready to abide by any conditions to be imposed by this Court. Hence, prayed for granting of bail.

4. Learned High Court Government Pleader seriously objected for grant of bail and contended that this petitioner has actually committed the murder of the deceased by using the knife assaulted four times on the neck of the deceased. CWs.5 and 6 are the eye witnesses to the incident. CW.20 speaks about giving supari to this petitioner by the accused persons. Therefore, the ground of parity is not available to this petitioner. Hence, prayed for dismissal of the bail petition.

5. Upon hearing the arguments and perusal of the records, which goes to show that admittedly, the case was registered against Accused Nos.1 and 2 and others. Accused No.1 is the son of the deceased and Accused No.2 is the brother of the deceased. There is land dispute between the family members. Accused Nos.1 and 2 were jointly insisting the deceased to divide the property and give them their share in the property for which deceased said to have refused. Therefore, they hatched conspiracy to eliminate the deceased and said to have given supari to the present petitioner.

Accordingly, this petitioner said to have come along with other accused and

committed murder. The specific allegation against this petitioner is that he himself has committed the murder by assaulting on the neck of deceased with a knife. After the arrest, the police have recovered the knife. The statement of eye witnesses though recorded after the arrest on 11.6.2020 but they have stated that they saw this petitioner committing the murder of the deceased. CW.20 has spoken about giving supari to this petitioner. The co-accused might have been granted bail by this court on different grounds. But this petitioner is the main accused who actually committed the murder of the deceased. The investigation is completed and charge sheet is filed. If bail is granted to this petitioner, there is every possibility of tampering the prosecution witnesses and absconding from the case is not ruled out. Therefore, I am of the view, the petitioner is not entitled for granting bail. Accordingly, this petition is dismissed.