

(2013) 11 KAR CK 0150
In the Karnataka High Court
Case No : Criminal Petition No. 6629 of 2013

Viji H.S. @ Vijay Kumar @ Kencha @ Biliya	APPELLANT
Vs	
The State of Karnataka	RESPONDENT

Date of Decision : 27-11-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302, 34

Citation : (2013) 11 KAR CK 0150

Hon'ble Judges : H.S. Kempanna, J

Bench : Single Bench

Advocate : Lakshmikanth K, for the Appellant; Bvisweswaraiah, HCGP, for the Respondent

Final Decision : Allowed

Judgement

H.S. Kempanna, J.—The petitioner, who is arrayed as A.2 in S.C. No. 166/2013 on the file of the Addl. Sessions Judge, Mandya, registered for the offences punishable under Sections 302, 201 r/w. 34 of IPC is before this Court seeking for grant of regular bail. It is the case of the prosecution that A.3 who is wife of A.1 had borrowed a loan of Rs. 40,000/- from the deceased-Suma. The deceased Suma was demanding the said amount from A.1 and A.3. In that connection there were some differences between the two. It is also the case of the prosecution that the deceased Suma was in love with A.2 in the case. In due course of time she developed intimacy with another person. A2 had taken objection for the same. On account of this and in respect of the financial transaction that was there between A.1 and A.3, the accused hatched a plan to finish off the deceased. Accordingly on 10.10.2012 they took the deceased Suma in a Tata Sumo car from Jaraganahalli to a place called Muthathi, there they committed her murder, brought the dead body in the car and threw the same underneath the bridge situated near Nittur coming within the jurisdiction of Kanakapura Taluk and sped away in the car from the said place.

2. Learned counsel for the petitioner submits the entire case rests upon

circumstantial evidence. The only strong circumstance relied upon by the prosecution is; the deceased having been seen in the company of the accused at about 11.00 a.m. on 10.10.2012 near Jaraganahalli as per the version of CW.2 in the case. Apart from this, other circumstance relied upon by the prosecution is on account of the differences the accused had with the deceased they have committed the murder. He submits that the circumstances pressed into service at this stage do not clinchingly point towards the guilt of the accused. The accused is in custody since 15.10.2013. He also submits the statement of CW.2 has been recorded some days after the occurrence. He further submits that A4 and A1 in the very case have already been released on bail by this Court in CrI.P. No. 2597/2013 & CrI.P. No. 4249/2013 respectively. Therefore, he submits that the present petitioner also be released on bail.

3. Per contra, learned High Court Government Pleader vehemently opposed the application filed by the petitioner.

4. The material on record reveals the entire case of the prosecution rests upon the circumstantial evidence. The strong circumstance relied upon by the prosecution as per the final report in the case is; the deceased having been seen in the company of the accused for the last occasion on 10.10.2012 at about 11.00 a.m. near Jaraganahalli. The dead body of the deceased has been found on the morning of 11.10.2012 underneath the bridge near Nittur within the jurisdiction of Kanakapura, in respect of which, a complaint has been filed before Halagur police. Except this material, there is nothing at this stage to indicate any of the accused are involved in the commission of the murder of the deceased. The petitioner is in custody since 15.10.2012. Accused Nos. 1 and 4 in the very case have been granted bail by this Court. Taking these aspects into consideration, in the circumstances of the case, I do not find any justification to decline the request of the petitioner. Accordingly, I proceed to pass the following:--

ORDER

1) The Petition is allowed.

2) The petitioner is ordered to be released on bail on his executing a personal bond in a sum of Rs. 50,000/- with one surety for the likesum to the satisfaction of the learned Sessions Judge subject to the following conditions:--

i) The petitioner shall not tamper with the prosecution witnesses.

ii) He shall appear before the Trial Court on all the dates of hearing.