



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

CRIMINAL PETITION NO. 6818 OF 2024

Between:

Mahesh H.,
Aged about 35 years,
S/o Hanumanthappa,
R/at Jagadish Reddy site,
Behind Manikchand Factory,
1st Cross, Next to Patalamma Temple,
AECS Layout, B Block,
Singasandra Service Road,
Bengaluru - 560 068.
(Now in Judicial Custody
Central Prison Bengaluru)

...Petitioner

(By Sri N.S.Sampangiramaiah, Advocate for
Sri H.L.Jayaramu, Advocate)

Digitally signed by
VEERENDRA
KUMAR K M
Location: HIGH
COURT OF
KARNATAKA

And:

State of Karnataka
By Parappana Agrahara Police Station,
By State Public Prosecutor
High Court Building.
Bengaluru - 560001.

...Respondent

(By Smt. Rashmi Jadhav, Addl. SPP)

This Criminal Petition is filed u/s 439 Cr.PC praying to order for release of the petitioner on bail in Crime No.0196/2020 (Parappana Agrahara Police Station) S.C.No.880/2020 for the offence p/u/s 120B, 302 read with 23



of IPC, which is pending on the file of the Hon'ble LXI Additional City Civil and Sessions Judge, Bengaluru (CCH-62).

This Criminal Petition, coming on for orders, this day, order was made therein as under:

CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

ORAL ORDER

Heard Sri. N.S. Sampangiramaiah, counsel for Sri. H.L. Jayaramu, learned counsel for the petitioner and Smt. Rashmi Jadhav, Addl. SPP., for the State.

2. This is a petition under section 439 Cr.P.C. filed by accused no.1 in S.C.No.880/2020 on the file of LXI Addl. City Civil and Sessions Judge, Bengaluru, CCH-62. The FIR was registered at Parappanagrahara Police Station against the petitioner and another accused viz., Prashanth Kumar for the offence punishable under section 302 r/w 34 IPC. The incident in question took place on 8.8.2020. The allegation is that both the accused killed one Yogesh.

3. The submission of Sri. Sampangiramaiah is that though the incident is said to have taken place on



08.08.2020, the statement of the eye witnesses under section 161 Cr.P.C. were recorded on 14.08.2020 and the statements under section 164 Cr.P.C. were recorded on 26.08.2020. According to prosecution the eye witnesses were very much available with the complainant. This shows that there is no prima facie case in the prosecution story. Already accused no.2 has been released on bail and on the ground of parity also, the petitioner becomes entitled to bail.

4. Smt. Rashmi Jadhav, Addl. SPP submits that the incident occurred during COVID time. The investigating officer secured the presence of the witnesses after lapse of time because of this reason. Moreover the petitioner is the main accused who caused the death of Yogesh and therefore bail cannot be granted.

5. The prosecution papers discloses that the petitioner is the main accused because he was the one who had motive to take revenge against the deceased. The incident is shown to have taken place on 08.08.2020



at 8.30 p.m. If these eye witnesses were very much present with the complainant, then the delay in recording their statements under sections 161 and 164 Cr.P.C. have the bearing in the sense it gives scope to doubt whether they were really the eye witnesses or not. The investigating officer has to explain the delay. It is also submitted by Sri. Sampangiramaiah that the trial has not yet commenced though the charge sheet was filed long back. As per the submission made by Sri. Sampangiramaiah the petitioner has no criminal antecedents and the same is not contraverted by the respondent police. For all these reasons, I am of the opinion that the petitioner can be released on bail by imposing conditions. Hence the following:

ORDER

Petition is allowed.

The order passed by the LXI Additional City Civil and Sessions Judge, Bengaluru CCH-62 dated 01.06.2021 in SC.No.880/2020 filed under section 439 Cr.P.C., is set aside. The said petition is allowed.



The petitioner shall be released on bail by obtaining from him a bond for Rs.2,00,000/- (Two Lakhs only) and two sureties for the likesum to the satisfaction of the trial court.

The petitioner is also subjected to following conditions:-

- i. He shall not tamper with the evidence and threaten the witnesses.*
- ii. He shall regularly appear before the trial court till conclusion of the trial.*
- iii. He shall not get involved in any other criminal case/s in future. In case any FIR is registered against him, the same will be considered for cancellation of bail.*

SD/-
(SREENIVAS HARISH KUMAR)
JUDGE

sd

List No.: 1 Sl No.: 2