IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

CRIMINAL PETITION NO. 7446 OF 2020

BETWEEN:

Mr. Yathish,
S/o. Sathish
Aged about 22 years,
R/at Behind
Talaghattapura Police Station,
Talaghattapura, Bengaluru-560062.

…Petitioner

(By Sri. D.S.Venkataramanappa, Advocate)

AND:

The State of Karnataka
By its Inspector,
Malur Police Station,
Represented by
State Public Prosecutor,
High Court Building,
Bengaluru-560001.

... Respondent

(By Sri. K.S.Abhijith, HCGP)

This Criminal Petition is filed under Section 439 Cr.P.C. praying to enlarge the petitioner on bail in CR.No.197/2019 of Malur Police Station, Kolar for the offence punishable under Sections 302, 392 read with 34 of IPC.

This Criminal Petition coming on for orders, this day, the Court made the following:

ORDER

Accused no.1 is the petitioner. This is a petition under Section 439 of Cr.P.C. In FIR No.197/2019, the police registered a crime punishable under Section 302 of IPC.

2. Heard both sides.

3. On 31.8.2019, one Govindappa of Doddasabbenahalli village made a report to the police that when his mother was working in the farm land belonging to his son Shivakumar, somebody might have killed her after snatching the jewellery she was wearing. The investigation revealed that the petitioner and other three accused were responsible for causing the death of the old woman. They were in the habit of committing robbery during midnight and on sighting lonely woman either in the houses or at some other places.

4. The learned counsel for the petitioner submits that the petitioner was taken to custody on 31.9.2019 in relation to FIR No.428/2020 registered by Byadarahalli Police Station. On 7.7.2020, the police applied for issuance of body warrant in connection with this case and having obtained body warrant he was produced before the Magistrate. In FIR No.428/2020 of Byadarahalli Police Station, the petitioner was admitted to bail and therefore in connection with this case the petitioner is required to be released on bail. His further submission is that after obtaining body warrant, the police obtained confession statement of the petitioner. At that time he revealed his participation in committing the death of first informant's mother. Thus he came to be implicated in this case. Confession statement cannot be acted upon and that there were no recoveries at the instance of the petitioner. Recovery that is said to have been made is at the instance of accused no.2 and 3 from the house of Sumalatha i.e., the mother of accused no.3, who is also cited as CW-10 in the charge sheet.

5. His further argument is that entire investigation is completed, there are no eye witnesses and the entire case is based on circumstantial evidence and therefore bail can be granted.

6. The Government Pleader submits that since there is recovery of the jewellery that belonged to the deceased, from the house of CW-10, the petitioner's nexus with the crime is very much forthcoming. The petitioner is very much involved in causing the death of the old woman. This court rejected the bail application of accused no.2 and therefore this petition should also be dismissed.

7. After considering the arguments it is to be stated that the petitioner's involvement appears to have come to light after he made a confession before the police. It is true that in the eye of law such a confession is inadmissible. However it is to be stated that the petitioner revealed before the police that the jewellery snatched from the old woman were handed over to Sumalatha, CW-10. The very same jewellery were recovered by the police at the instance of

accused no.2 and 3. This circumstance can be clearly brought within the realm of section 27 of the Indian Evidence Act. The confession statement made by the petitioner led to discovery of a fact that the robbed jewellery had been handed over to CW-10. When accused 2 and 3 were arrested subsequently, they too stated before the police about jewellery being given to CW-10, and then if the police could recover those jewellery from CW-10, the disclose made by the petitioner, much before the arrest of accused no. 2 and 3, assumes relevancy. The accused no.2 and 3 might have given confession statements subsequent to their arrest and led the police to the house of CW-10 for the purpose of making seizure, though the petitioner was not there at the time of seizure; very significantly it can be noticed that disclosure of a fact made by the petitioner is consistent with disclosure made by accused no.2 and 3. Thus seen, the involvement of the petitioner in the crime is very much forth coming. Though there are no eye witnesses, the seizure in the circumstances aforementioned is enough to hold that

there are prima facie materials. There is no case for granting bail, the petition is rejected.

SD/-
JUDGE

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