NC: 2024:KHC-K:9962
CRL.A No. 200303 of 2024

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 19TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE K NATARAJAN

CRIMINAL APPEAL NO. 200303 OF 2024

BETWEEN:

SHIVANNA @ SHIVANANDA
S/O DODDAPPA HOTAGI,
AGED ABOUT 20 YEARS,
OCC: COOLIE, R/O KORAHALLI,
TQ: ALMEL,
DIST: VIJAYAPURA - 586 101

...APPELLANT

(BY SRI. SANJAY A PATIL, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA THROUGH,
POLICE ALMEL POLICE STATION,
DIST: VIJAYAPURA-586 101,
REPRESENTED BY ADDL. SPP,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH-585 103.

2. SHILA
S/O PARASURAM MYAKERI,
AGED ABOUT 23 YEARS,
OCC: H.H. WORK,
R/O KORHALLI, TQ: ALMEL,
DIST: VIJAYAPURA-586 101,
NOW AT AMBEDKAR CIRCLE, SINDAGI,
TQ: SINDAGI, DIST: VIJAYAPURA-586 101.

...RESPONDENTS

(BY SMT. ANITHA M REDDY, HCGP FOR R1;
V/O/D 16.12.2024, NOTICE TO R2 IS H/S)

Digitally signed by
VEDAVATHI A K
Location: High
Court of Karnataka

THIS CRL.A IS FILED U/SEC. 14-A OF SC/ST (PA) ACT, PRAYING TO, SET ASIDE THE ORDER DATED 07.11.2024 PASSED IN CRL .MISC. NO. 1636/2024 ON THE FILE OF II ADDL DISTRICT AND SESSIONS AND SPECIAL JUDGE VIJAYAPURA AND THEREBY ENLARGE THE APPELLANT/ACCUSED NO. 3 ON BAIL IN CRIME NO. 24/2024 PENDING IN SPL. CASE (SC/ST) NO. 23/2024 ON THE FILE OF II ADDL DISTRICT AND SESSIONS AND SPECIAL JUDGE VIJAYAPURA, CHARGE SHEETED FOR THE OFFENCES PUNISHABLE U/SEC 201, 302, 504, 506 R/W 34 OF IPC AND SEC 3(1) (r), 3(2)(v-a) OF SC/ST (PA) ACT, 1989 REGISTERED BY ALMEL POLICE STATION, DIST VIJAYAPURA, IN THE INTEREST OF JUSTICE.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE K NATARAJAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE K NATARAJAN)

This appeal is filed by the appellant under Section-14-A(2) of Prevention of Atrocities of SC/ST (Amendment) Act (hereinafter referred to as 'Atrocities Act') for setting aside the order in Crl.Misc.No.1636/2024, dated

07.11.2024, passed by the II Addl.District And Sessions And Special Judge, Vijayapura for having rejected the bail application of this petitioner under Section-439 of Cr.P.C.

2. Heard the arguments of the learned counsel for the appellant and learned HCGP for the respondent No.1. Respondent No.2 is served and unrepresented.

3. The case of the prosecution is that on the complaint filed by the wife of the deceased to the Police alleging that her husband Parashuram left the home on the night of 28.02.2024, stating that he will come back by morning. On the next day i.e., on 29.02.2024 at 1.00 a.m., CW-10 informed that her husband was done to death by the accused persons. Thereafter, she went to the spot and shifted the injured to the hospital where he was declared dead. A FIR came to be registered against the appellant and other accused and they were arrested on 29.02.2024. The bail of this appellant came to be dismissed by the Sessions Judge in Crl.Misc.No.1636/2024.

4. Learned counsel for the appellant contended that the appellant is in custody for almost morethan 10 months. The over-tact against the appellant is that he is said to have assaulted / stabbed the deceased on the stomach with one sharp object and the incident has occurred during the spur of moment when the deceased himself tried to cause injury to accused No.1. There was no intention of the appellant to commit the murder of the deceased. The investigation was completed long back and the appellant is ready to abide by any conditions. That the age of the deceased was only 20 years age and he was an agriculturist and hence prayed for granting the bail.

5. Per contra, the learned HCGP objected the appeal contending that earlier occasion, this Court rejected the bail petition of accused No.4 as there was eye-witnesses to the incident and the weapon used by the accused has been seized by the Police. The injuries that was caused to the deceased was multiple injuries and

therefore if bail is granted, he may threaten the eye-witnesses and abscond from the place and hence prayed for rejecting the petition.

6. Having heard the arguments and perused the records, it shows that the incident in the midnight of 28.02.2024. At the time of quarrel there were eye-witnesses viz., CW-10, CW-11 and CW-22, CW-29 were at the spot. When the incident took place, when they all went to land of Nandi for playing cards. The accused persons 1 and 2 went on motorcycle and accused No.3 and 4 went in another motorcycle to the place of occurrence. The accused No.1 said to have called CW-1 and by that time the deceased was abducted, when he was calling and they picked up quarrel and immediately the deceased said to have tried to assault accused No.1 with broken beer bottle. However, the accused person was successful in assaulting him and accused No.1 took the koita and accused No.4 said to have snatched the koita from Accused No.1 and assaulted on the head. This appellant

said to have took the knife and stabbed on the stomach and caused the injuries and done the deceased to death.

7. The incident took place in front of CW-10 and CW-11 and the accused persons actively participated in committing the murder with deadly weapons like koita and knife. Post-moterm report reveals that the death was caused due to the multiple inquiries sustained by the deceased morethan 10 injuries. Wherein 8 injuries were on the upper chest injuries and most of the injuries sustained by the deceased was grievous injuries. On perusal of the injuries sustained by the deceased, it is seen that the assault made by the accused No.1 was also main cause for the death of the deceased. It cannot be bifurcated that the appellant's assault over chest and that chest injury does not lead to the death. Whereas the injury caused by the other accused caused the death. It is seen from the record that a common object or the intention of the accused person to commit the murder, they took the deceased to a lonely place and jointly committed the murder. Of course

the appellant is in custody for 10 months, but however, there are various eye-witnesses to the incident and if the appellant is granted bail, there is every possibility of threatening and tampering the witnesses and there is also chances of delaying the process of the case are not ruled out. The bail application of accused No.4 is already rejected by this court in the earlier occasion on 08.08.2024. There is no sufficient ground available for the appellant for grant of bail by setting-aside the order passed by the trial court. Accordingly, the appeal being devoid of merits stands dismissed.

Sd/-
(K NATARAJAN)
JUDGE

JJ
List No.: 19 Sl No.: 5