

IN THE HIGH COURT OF KARNATAKA
GULBARGA BENCH

DATED THIS THE 31ST DAY OF JULY, 2014

BEFORE

THE HON'BLE MRS. JUSTICE RATHNAKALA

CRL. PETITION No.2860/2014

C/W CRL. PETITION No.200546/2014

CRL. PETITION No.200504/2014

CRL. PETITION No.200155/2014

IN CRL. PETITION No.2860/2014

BETWEEN:

RAMU
S/O SIDDAPA SAVALAGI
AGE-19 YRS., OCC-COOLIE
R/O TORVI VILLAGE,
TQ.AND DIST. BIJAPUR-586101

...PETITIONER

(BY SRI SHARANAPPA MATTUR AND
SRI ANIL KUMAR N.S., ADVS.)

AND:

THE STATE OF KARNATAKA
BY GANDHI CHOWK POLICE STATION
DIST.BIJAPUR-586101

...RESPONDENT

(BY SRI SANJAY A.PATIL, ADDL.S.P.P.)

THIS CRL.P. IS FILED UNDER SECTION U/S.439 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO ENLARGE THE PETITIONER ON BAIL IN S.C.NO.24/2014 (CR.NO.244/2013 OF GANDHI CHOWK P.S., BIJAPUR DIST.,) ON THE FILE OF THE II ADDL S.J. BIJAPUR, WHICH IS REGD., FOR THE OFFENCE P/U/Ss.120-B, 302, 201, 504, 506 R/W. 34 OF IPC.

IN CRL. PETITION No.200546/2014

BETWEEN:

SHRI AJEET
S/O SHIVANAGOUDA BIRADAR
AGED ABOUT 24 YEARS
OCC: STUDENT/AGRI.,
R/O RAGHAVENDRA COLONY,
BAGALKOT ROAD,
BIJAPUR - 586101

...PETITIONER

(BY SRI S S MAMADAPUR, ADV.)

AND:

THE STATE OF KARNATAKA
REPRESENTED BY ITS
STATE PUBLIC PROSECUTOR
ADVOCATE GENERAL'S OFFICE,
HIGH COURT BENCH BUILDING,
GULBARGA - 585101.

...RESPONDENT

(BY SRI SANJAY A.PATIL, ADDL.S.P.P.)

THIS CRL.P. IS FILED UNDER SECTION U/S. 439 OF CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO, ENLARGE THE PETITIONER ON BAIL IN S.C.NO:24/2014 ON THE FILE OF THE LEARNED II

ADDITIONAL SESSIONS JUDGE, BIJAPUR (GANDHI CHOWK P.S.
CRIME NO:244/2013), WHICH IS REGISTERED FOR THE OFFENCES
P/U/S. 120(B), 302, 201, 504, 506 R/W 34 OF IPC.

IN CRL. PETITION No.200504/2014

BETWEEN:

KALLAYYA @ KALLAPPA @ KALYA
S/O SHRISHAIL KUMBAR
AGED ABOUT 22 YEARS
OCC: BUSINESS,
R/O NAGATHAN VILLAGE,
PRESENTLY RESIDING AT
TORAVI VILLAGE, BIJAPUR

...PETITIONER

(BY SRI R S LAGALI, ADV.)

AND:

THE STATE OF KARNATAKA
REP. BY THE PSI.,
GANDHI CHOWK P.S., BIJAPUR

...RESPONDENT

(BY SRI SANJAY A.PATIL, ADDL.S.P.P.)

THIS CRL.P. IS FILED UNDER SECTION 439 OF CR.P.C BY
THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS
HON'BLE COURT MAY BE PLEASED TO, ENLARGE THE PETITIONER
ON BAIL IN SESSIONS CASE NO:24/2014 (GANDHI CHOWK P.S.
CRIME NO:244/2013) PENDING ON THE FILE OF II ADDL.
SESSIONS JUDGE BIJAPUR, WHICH IS REGISTERED FOR THE
OFFENCES P/U/Ss.143, 147, 120(B), 302, 201 R/W. 149 OF IPC.

IN CRL. PETITION No.200155/2014

BETWEEN:

MR. SANDEEP @ PINTU
S/O RAMACHANDRA PAWAR,
AGED ABOUT 29 YEARS
OCC : NILL, R/O GYANG BAWADI
BIJAPUR-586212

...PETITIONER

(BY SRI SHAIKH SAUD, ADV.)

AND:

THE STATE OF KARNATAKA
BY GANDHI CHOWK POLICE,
BIJAPUR, REPRESENTED BY :
THE STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
GULBARGA-585104

...RESPONDENT

(BY SRI SANJAY A.PATIL, ADDL.S.P.P.)

THIS CRL.P. IS FILED UNDER SECTION 439 OF CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO, RELEASE THE PETITIONER ON BAIL IN CRIME NO.244/2013 OF GANDHI CHOWK POLICE STATION, DIST. BIJAPUR, WHICH IS REGISTERED FOR THE OFFENCES P/U/Ss.120(B), 302, 504, 506 & 201 R/W SEC. 34 OF IPC.

THESE PETITIONS COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

These petitions are filed under Section 439 of Cr.P.C. seeking bail in Crime No.244/2013 of Gandhi Chowk Police Station. The accused herein are charge sheeted for the offence punishable under Sections 143, 147, 120(B), 302, 201 r/w section 149 of IPC.

2. The case of the prosecution is the first accused in CrI.P.No.200546/2014 was hatched a plan against his father since he refused to give money demanded. With an intention to do away with his life, he persuaded his friends accused Nos.2 to 4 to co-operate him in the murder of his father and offering them to pay Rs. 4 to 7 lakhs, accordingly gave advance amount of Rs.1 lakh.

3. On the evening 10.10.2013 they went to the chambers of the deceased in a car driven by accused No.5 who is none other than the cousin of the first accused. They persuaded the deceased to go for test drive in the car. The deceased was made to sit in the back seat and they proceeded on

Bijapur – Jamakhandi road: the 4th accused/petitioner in CrI.P.No.2860/2014 held both hands of the deceased; the 2nd accused/petitioner in CrI.P.No.200155/2014 closed his mouth; the 3rd accused in CrI.P.No.200504/2014 throttled him; and accused Nos.4 and 5 were abetting the said act and the deceased was done to death and thereafter his dead body disposed of in the back water near Benal bridge. Subsequently the 5th accused who was unable to palate the above incident made extra judicial confession of the offence with the complainant who is none other than younger brother of the deceased on 13.11.2013 i.e. after 35 days of the incident.

4. Learned counsel appearing for the petitioners submit that there is enormous delay in lodging the complaint. No incriminating material is recovered at the instance of the petitioners. They are implicated only on the basis of extra judicial confession statement of the co-accused, which is a week evidence. So called confessional statement made by

the accused before the police since not legal cannot be acted upon their languishing in the jail. Except the present case, they are not involved in any other criminal case. They are persons having deep root in the society and they are all students prosecuting their studies. Since the charge sheet is filed there is no question of their meddling with the prosecution evidence and they may be released on bail.

5. Sri Sanjay A. Patil, learned Addl. SPP for the State submits that it is not the stage to violate the quality of the evidence collected by the prosecution, in pursuance of the same, they have taken Investigating Officer to the place of occurrence and the mahazar was drawn in the presence of panchas though the car is not traced, as of now the prosecution has collected best possible evidence which can fasten the liability Section 302 of IPC against these petitioners. The delay in lodging the complaint is explained in the complaint that the 5th accused was scared to disclose the matter and however unable to bear with the secret he

finally divulge the incident with the complainant, with an intention to knock off the money of the father the 1st accused with the assistance of the 2nd and 3rd accused have committed heinous offence and none of the petitioners are entitled for bail.

6. It is a fact that the best piece of evidence i.e. the dead body since not traced a vital piece of evidence is missing. The veracity extra judicial statement given by the 5th accused, shall be tested only through during the trial.

7. Having regard to the age and social background of the petitioners, have no criminal background, I hold that its not required to continue them in judicial custody till the case reaches its logical end.

8. Accordingly, petitions are allowed.

- i) Petitioners are enlarged on bail on each of them executing a self bond for a sum of Rs.2,00,000/- with two separate sureties, out of them one of the surety must be a

solvent surety possessing solvency
certificate;

- ii) They shall not threaten upon the
prosecution witnesses.

**Sd/-
JUDGE**

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