

**IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH**

Dated this the 28th Day of February 2017

BEFORE

THE HON'BLE MR. JUSTICE K.N.PHANEENDRA

Criminal Petition No. 100275/2017

Between:

Sri Basayya Siddayya Angadi,
Age: 38 yrs, Occ: Business,
R/o: Chikkanandihalli,
Tal: Bailhongal, Dist: Belagavi.

- Petitioner

(By Sri Santosh B. Malagoudar, Advocate)

And:

The State of Karnataka through
PSI, Kittur Police Station,
Represented by its Addl S P P,
SPP Office, High Court of
Karnataka, Dharwad.

- Respondent

(by Sri Praveen K. Uppar, HCGP)

This Criminal Petition is filed under 439 of Cr.P.C.,
praying to enlarge the petitioner on bail in connection
with Crime No. 56/2015 on the file of Kittur Police
Station for the offences punishable u/S 120(B), 201, 302
& 506 r/w Sec. 34 of IPC & etc.

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

ORDER

Heard the learned counsel for the petitioner and also the learned High Court Government Pleader for the respondent - State. Perused the entire charge sheet papers lodged against the petitioner.

2. The case of the prosecution as per charge sheet is that, the accused No.1 by name Nagangoudar Shivanand Patil has got some real estate business with the deceased Fakiragouda Patil, husband of CW1 Smt.Rathna. It is alleged that on 02.04.2015 in connection with the real estate business, the accused Nos. 1 and 2 have secured the presence of the deceased near the shop of CW7-Santosh and accused No.1 brought a Motor Car and in that Motor car both accused persons have taken the deceased along with them. It is further alleged that the accused persons have had intention to do away with the life of the deceased on the ground that deceased was avoiding the accused No.1 from his real estate business and he

alone want to make gain out of said business. It is further alleged that on 03.04.2015 the accused persons taken the deceased to Sy. No. 31 and in the said land, the accused persons have assaulted the deceased with an iron rod and committed his murder and thereafter, threw the dead body into a dry well and put some hay in order to cover the said body in the said well.

3. It is the case of prosecution that subsequently, CW6 Basayya, who over heard the accused persons on 10.04.2015 in Gajaraj Hotel that, they were talking to each other that they have removed the deceased Fakiragouda Patil and there is no other person to prevent them from doing the business and also nobody is there to ask them to pay any money back. Suspecting the accused persons, it appears, the Police have interrogated the accused persons and thereafter recovered the dead body and incriminating articles at the instance of the accused and also after recording statement of the witnesses laid the charge sheet.

4. The learned counsel for the petitioner strenuously contends before this court that the entire allegations are made against accused No.1, the motive is pitted against accused No. 1 and all the recoveries are made at the instance of accused No. 1. The accused No. 2 is nowhere connected with the allegations made in the charge sheet and he was only last seen together with the deceased as stated by CW7 Santosh. Except that, nothing is incriminating against this petitioner, who is arrayed as accused No.2. Therefore, he contends that accused No. 2, the petitioner herein is entitled to be enlarged on bail.

5. On careful perusal of the materials on record, the statement of CW6, who has stated that on 10.04.2015 at about 3.00P.M. in Gajaraj Hotel, when he was taking food, at that time the accused Nos. 1 and 2 both were talking together and they were claiming that they have removed Fakiragounda Patil, the deceased and there is no other person to restrain them from doing the

business and also nobody is there to ask any money from them. The said information was given to the one Annappa Gowda, and in-turn it was disclosed to the wife of deceased, i.e., Rathnavva and she gave information to the Police. The Police have arrested the petitioner and accused No. 1 and interrogated them. It is seen from the records that dead body was recovered at the instance of both the accused persons, Panchanama clearly disclose that both the accused persons were interrogated in the presence of panch witnesses and both have shown where actually they have committed murder and disposed off the dead body. They took the police where the dead body was thrown into a well in the land in Sy. No. 31 and also put hay in order to disguise the dead body. The Police have recovered the dead body at the instance of both the accused persons. Though accused No.1 took the Police and others leading them to the place, but nevertheless, panchanama shows that both the

accused persons have disclosed the said place, which was exclusively known to accused Nos. 1 and 2.

6. Likewise, CW7 has stated that on 02.04.2015, he saw the accused persons taking the deceased along with them. The other Panchanamas drawn up in the case, where accused persons have shown the place in-accordance as well as whether the place of occurrence as well as where they put the deceased. The Panchanamas disclose that, the accused persons have stated, to show the place from which they have taken the deceased and also where the incident happened and where the dead body was kept and also that the incriminating articles where actually they have kept.

7. Looking into the facts and circumstances of the case, at this stage, the acts of the accused Nos. 1 and 2 cannot be bifurcated. When it is specifically alleged that both of them taken the deceased together and there is no explanation by the accused, what happened later. Under the above said facts and circumstances,

this point has to be thrashed out during the course of trial. Hence, I do not find any reason to enlarge the petitioner on bail, though there are some minor discrepancies in the panchanamas. Hence, the Petition deserves to be dismissed. Accordingly, it is dismissed.

As the accused persons have already been in judicial custody for nearly 2 years, the trial court is directed to expedite the trial and dispose of the case as expeditiously as possible preferably within six months from the date of receipt a copy of this order.

**Sd/-
JUDGE**

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