

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF DECEMBER, 2017

BEFORE

THE HON'BLE MR. JUSTICE N K SUDHINDRARAO

CRIMINAL PETITION No.201380 OF 2017

BETWEEN:

SHAIK BABA
S/O SHAIKH SALEEM
AGE: 47 YEARS
OCC: BUSINESS
R/O MADIAN COLONY
MSK MILL ROAD
KALABURAGI – 585 103

...PETITIONER

(BY SRI:B.S.NASI, ADV.)

AND:

THE STATE
GRAMEEN POLICE STATION
KALABURAGI
REPRESENTED THROUGH
ADDITIONAL S.P.P.
HIGH COURT OF KARNATAKA
AT KALABURAGI BENCH – 55 102

... RESPONDENT

(BY SRI:K. NAGESHWARAPPA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.No.267/2017 (CRL. MIS. NO.1612/2017) OF GULBARGA RURAL POLICE STATION FOR THE OFFNCES PUNISHABLE UNDER SECTIONS 143, 147, 148, 323, 324, 448, 302, 504, 120(B), 109 READ WITH 149 OF IPC, PENDING BEFORE III ADDITIONAL DISTRICT AND SESSIONS JUDGE AT KALABURAGI.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THIS DAY, THE COURT PASSED THE FOLLOWING:

O R D E R

This is a petition filed under Section 439 of Cr.P.C. seeking bail in connection with Crime No.267/2017 for the offence punishable under Sections 143, 147 148, 323, 324, 448, 302, 504, 120(B), 109 read with 149 of Indian Penal Code ('IPC' for short).

2. The complaint came to be lodged by one Riyaz Ahmed Patel stating that on 23.07.2017 at 5.00 PM in the land bearing Sy. No.122/1 of Brahmapur, at about 2.00 PM when Mohommad Muddaseer @ Mohammat Iliyas was engaged in agriculture in his land, by that time accused Nos.2 came and

raised quarrel declaring their ownership over the property and took the help of accused Nos. 3 to 19. Accordingly, the said accused Nos. 3 to 19 came by vehicles and attacked Mohammed Iliyas abusing him in filthy language raising the name of his mother and when the said Mohammed Iliyas ran for his life and entered a room and bolted it, it was broken by the accused and he was pulled out of the room and stabbed by accused No.3 on stomach by the knife. Accused No.6 took the knife from accused No.12, hit Mohammad Iliyas on the head and caused serious bleeding injuries. Accused Nos. 16 to 18 guarded against the entry of third person or the exit of Mohammed Iliyas and was done to death.

3. Perused the Post Mortem report. The death of Mohammed Iliyas is said to have caused due to "*hemorrhage and shock as a result of stab injury to the abdomen sustained. However Final opinion is reserved pending for want of chemical analysis report.*"

4. The present petitioner is accused No.2 in the alleged crime. Learned counsel for the petitioner would submit that

accused Nos. 17 and 19 are enlarged on anticipatory bail. The petitioner has been in judicial custody since from 29.07.2017.

5. Learned HCGP opposes grant of bail to the petitioner.

6. In the context and facts and circumstances of the case, the number of accused involved in the alleged crime and also the land dispute between them and the deceased, in the circumstances, it appears to be just and proper to grant the petitioner of bail. The apprehension of the prosecution to be resolved by imposing stringent conditions.

7. Accordingly, the petition is allowed. The petitioner is enlarged on bail in connection with Crime No.267/2017 for the offence punishable under Sections 143, 147 148, 323, 324, 448, 302, 504, 120(B), 109 read with 149 of IPC read with Section 149 of Indian Penal Code, subject to following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.1,00,000/- with one surety for the likesum to the satisfaction of the Trial Court,

(ii) He shall not terrorize or tamper with any of the prosecution witnesses.

(iii) He shall mark his attendance on every first Saturday of each between 9.00 a.m. to 10.00 p.m. once in a month until further orders by the trial court.

Sd/-
JUDGE

Bsv