

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31<sup>ST</sup> DAY OF MARCH 2020

BEFORE

**THE HON'BLE MR. JUSTICE JOHN MICHAEL CUNHA**

CRIMINAL PETITION NO.2163 OF 2020

BETWEEN:

SRI.M.C. SOMAIAH @ ROHAN,  
S/O LATE M.A. CHENGAPPA,  
AGED 25 YEARS,  
NO.42, 1<sup>ST</sup> MAIN, 2<sup>ND</sup> CROSS,  
MANJUNATH LAYOUT, R.T. NAGAR,  
BENGALURU-560032.

... PETITIONER

(BY SRI: N.RAVINDRANATH KAMATH, ADVOCATE)

AND:

THE STATE OF KARNATAKA  
BY SUB-INSPECTOR OF POLICE,  
J.C. NAGAR POLICE STATION,  
REPRESENTED BY SPP  
HIGH COURT OF KARNATAKA,  
BENGALURU-560001.

... RESPONDENT

(SPP SERVED)

THIS CRL.P IS FILED U/S.439 CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.36/2019 (S.C.NO.1147/2019) OF J.C.NAGAR P.S., BENGALURU CITY FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 143, 147, 120-B, 302 R/W 149 OF IPC.

THIS CRIMINAL PETITION PERTAINING TO THE PRINCIPAL BENCH, BENGALURU, COMING ON FOR ORDERS AT PRINCIPAL BENCH, BENGALURU, THROUGH VIDEO CONFERENCE, THIS DAY, THE COURT MADE THE FOLLOWING:

O R D E R

Heard learned counsel for petitioner.

This is the successive bail petition filed under section 439 Cr.P.C. seeking release on regular bail in Crime No.36/2019. The earlier application filed by the petitioner before this Court was rejected by a considered order dated 15.10.2019 in Criminal Petition No.6876/2019. Challenging the said order petitioner approached the Hon'ble Supreme Court and by order dated 13.12.2019 in Special Leave to Appeal (Crl.) No.10481/2019, the application filed by the petitioner was disposed of with a direction to the Trial Court to take up the matter for framing of charges, if any. It was further ordered that if the petitioner is not discharged, he shall be entitled to prefer an application for bail, and as and when such application is preferred, the same shall be disposed of on merits and in accordance with law.

2. Petitioner has produced the copy of the order passed by the Trial Court on the application filed by him under section 227 of Cr.P.C. seeking his discharge. By order dated 22.01.2020, the Trial Court has rejected the said application and has

proceeded to frame charges against the petitioner. The application filed by the petitioner seeking his release on bail has also been rejected by the Trial Court.

3. Learned counsel for petitioner contends that accused Nos.4 to 7 are already enlarged on bail. Investigation is completed and custody of the petitioner is not required to be extended any further. Further his mother is suffering from acute ailment and in proof thereof, the medical certificate issued by Dr.K.G.Raviraj is produced.

4. As per the opinion of the Medical Officer, the mother of the petitioner requires psychiatrist care and counselling. According to the petitioner, no other family members are available to assist her in this crucial stage and therefore, he seeks release on bail.

5. Undoubtedly, the application filed by the petitioner was rejected by this Court by a considered order dated 15.10.2019 in Criminal Petition No.6876/2019 wherein it is observed that the petitioner and accused No.1 were instrumental in causing the death of the deceased. The case of the prosecution

is that on 22.04.2019 at about 1.00 a.m. in the night near Gangabhavani Church, PG road, accused No.1 hit on the head of the deceased Vignesh and when he fell down, accused Nos.4 to 7 caught hold of the deceased and accused No.1 cut the neck of deceased with a dagger, accused No.2 stabbed four to five times on the chest of the deceased with a razor. Insofar as present petitioner (accused No.3) is concerned, the material allegations are that the petitioner herein assaulted on the abdomen and back of the deceased.

6. Post mortem report reveals that the deceased died due to shock and haemorrhage as a result of multiple injuries. These injuries are attributable mainly to accused Nos.1 and 2. Nonetheless the investigation having been completed and there being no criminal antecedents against the petitioner and moreover the Hon'ble Supreme Court having reserved liberty to the petitioner to seek for bail in the event of rejection of his application for discharge, in my view, the petitioner could be admitted to bail, subject to conditions, as the custody of the petitioner is not required either for the purpose of further investigation or for the purpose of trial. Hence, the following:-

ORDER

Petition is **allowed** with the following conditions:-

- (i) Petitioner/accused No.3 Sri.M.C.Somaiah is ordered to be enlarged on bail on furnishing a bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the likesum to the satisfaction of the Trial court.
- (ii) He shall regularly appear before the Trial Court.
- (iii) He shall not threaten or allure the prosecution witnesses in whatsoever manner.
- (iv) He shall not get involved in similar offences.
- (v) He shall not leave the territorial limits of the Trial Court without prior permission of the Trial Court.

Registry is directed to communicate this order to the Trial Court through email.

**Sd/-  
JUDGE**

Bss