

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31st DAY OF JULY, 2021

BEFORE

THE HON'BLE MRS.JUSTICE M.G.UMA

CRIMINAL PETITION NO. 3010/2021

BETWEEN :

Arun Kumar
S/o Giriyappa
Aged about 31 years
R/at Koddur village
Near the Maramma Temple
Lakkuru Hobli,
Malur Taluk, Kolar
Now R/at Samandhur
Village, Anekal Taluk

...Petitioner

(By Sri. Rakshith R., Advocate)

AND :

State of Karnataka
By Suryanagar Police Station
Represented by
State Public Prosecutor
High Court of Karnataka
At Bangalore, Ambedkar veeidhi
Bangalore - 01

... Respondent

(By Sri K.S.Abhijith, HCGP)

This Criminal Petition is filed under Section 439 of Cr.P.C praying this Court to enlarge the petitioner on bail in Crime No.126/2020 (S.C.No.5073/2020) registered by Suryanagar Police Station, Bengaluru District for the offence punishable under Section 302 of IPC.

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

ORDER

The petitioner-accused is before this Court seeking grant of bail under Section 439 of Cr.P.C. in Crime No.126/2020 of Suryanagar Police Station, registered for the offence punishable under Section 302 of the Indian Penal Code (for short 'IPC'), on the basis of the first information lodged by the informant Ramachandra.

2. Heard Sri. Rakshith R., learned counsel for the petitioner and Sri.K.S.Abhijith, learned High Court Government Pleader for the respondent -State. Perused the materials placed on record.

3. Learned counsel for the petitioner submitted that the petitioner is the sole accused who is innocent and has not committed any offence. He was apprehended on 29.06.2020 on the allegation that he assaulted his wife with the chopper and caused her death. The investigation is undertaken and the charge sheet is filed for the offence punishable under Section 302 of IPC. The petitioner is

innocent and law abiding citizen and has not committed any offence as alleged. The Trial before the Trial Court has begun and as many as 11 witnesses were examined. PWs.1 to 4 are said to be the eye witnesses. But they have not supported the case of the prosecution. PWs.5 to 11 are the circumstantial witnesses and panchas. Their evidence is not helpful for the prosecution to prove the guilt of the accused. The remaining witnesses cited in the charge sheet are all formal official witnesses. Under such circumstances, detention of the petitioner in custody would amount to pre-trial punishment. The petitioner is the permanent resident of the address mentioned in the cause title to the petition and is ready and willing to abide by any of the conditions that would be imposed by this Court. Hence, he prays to allow the petition.

4. *Per contra*, learned High Court Government Pleader opposing the petition submitted that serious allegations are made against the petitioner for having committed the offences. The chopper used in commission

of the offence was recovered at the instance of the present petitioner. Since the offence in question is punishable either with the death or imprisonment for life, the petitioner is not entitled for grant of bail. Hence, he prays for dismissal of the petition.

5. In view of the rival contentions urged by learned counsel for both the parties, the point that would arise for my consideration is:

“Whether the petitioner is entitled for grant of bail under Section 439 of Cr.P.C.?”

My answer to the above point is in the ‘Affirmative’ for the following:

REASONS

6. The allegations made against the petitioner are of serious nature. The materials placed before the Court make out strong prima facie evidence against the petitioner. However, it is not in dispute that the eye witnesses who are examined as PWs.1 to 4 have not

supported the case of the prosecution. Under such circumstances, I do not find any reason to detain the petitioner in custody which amounts to infringement of his right to life and liberty. Hence, I am of the opinion that the petitioner is entitled to be enlarged on bail subject to conditions which will take care of the apprehension expressed by the learned High Court Government Pleader that the petitioner may abscond or may tamper or threaten the prosecution witnesses.

7. Accordingly, I answer the above point in the affirmative and proceed to pass the following:

ORDER

The petition is allowed.

The petitioner is ordered to be enlarged on bail in Crime No.126/2020 of Suryanagar Police Station on obtaining the bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the likesum to the

satisfaction of the jurisdictional Court, subject to the following conditions:

- a). The petitioner shall not commit similar offences.
- b). The petitioner shall not threaten or tamper with the prosecution witnesses.
- c). The petitioner shall appear before the Court as and when required.

**Sd/-
JUDGE**

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