

**IN THE HIGH COURT OF KARNATAKA
AT BENGALURU**

DATED THIS THE 31ST DAY OF MAY, 2021

BEFORE:

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

CRIMINAL PETITION NO.7190 OF 2020

BETWEEN:

PRAYAG P.G.,
S/O. GOPIDAS,
AGED ABOUT 23 YEARS,
R/O.#103, OPPOSITE TO PRERANA MOTORS,
HEBBAGODI,
BENGALURU CITY-560 099.

... PETITIONER

[BY SRI. SUDARSHAN L., ADVOCATE]

AND:

STATE BY
ASHOKNAGAR POLICE STATION,
BENGALURU
REP BY SPP HIGH COURT,
BENGALURU-560 001.

... RESPONDENT

[BY SRI. H.R. SHOWRI, HCGP]

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THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C., PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.108/2020 REGISTERED BY ASHOKNAGAR POLICE STATION, BENGALURU FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 R/W 34 OF IPC.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THROUGH VIDEO CONFERENCE, THIS DAY THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed under Section 439 of Cr.P.C. by petitioner/accused No.1 praying to enlarge him on bail in Crime No.108/2020 of Ashoknagar Police Station, Bangalore, registered for offence punishable under Section 302 read with Section 34 of IPC.

2. Heard the learned counsel for petitioner and the learned HCGP for respondent-State.

3. The case of the prosecution is that on 23.03.2020, the dead body of one Arjun Rao – father of CW3, was being taken to the grave yard and at that time, the deceased namely Nithin Kumar was bursting crackers. Accused Nos.1 and 2 picked up quarrel with him stating that he should give respect to them and should not burst crackers. It is alleged that accused No.2 fisted on the face of the deceased and the present petitioner stating that he should not be spared, removed a knife from his pocket and stabbed near his eyes, which resulted in his death.

4. Learned counsel for the petitioner would contend that even accepting the case of prosecution, there is no case made out against the petitioner for an offence punishable under Section 302 of IPC. He contends that the petitioner might have inflicted injuries to the deceased in a sudden quarrel and without any premeditation. He submits that according to the hospital records, the deceased got discharged from the hospital against the medical advice and he was shifted to his house and he died on 05.04.2020, after a lapse of 12 days from the date of incident. He submits that the petitioner has no criminal antecedents. He is ready and willing to abide by any conditions that may be imposed by this court. Accordingly, seeks to allow the petition.

5. The learned HCGP has opposed grant of bail to the petitioner contending that that there are two eye witnesses CWs.2 and 3, who have clearly attributed specific overt-acts to the present petitioner. He submits that the petitioner and accused No.2 have picked up quarrel with the deceased without any provocation and this petitioner has stabbed the deceased on the vital part of his body which ultimately resulted in his death.

He submits that in the event of release of the petitioner, there are chances of tampering the prosecution witnesses. Therefore, seeks to reject the petition.

6. The perusal of the statements of the eye witnesses namely CWs.2 and 3 goes to show that the accused picked up quarrel with the deceased and accused No.2 Bharath fisted on his face and the present petitioner removed a knife from his pocket and stating that everyone in the said area should respect them and he is not respecting him and therefore he should be finished and saying so stabbed the deceased with the said knife on his eyes. The post mortem report shows that the death is due to "coma on account of penetrating injury to the brain". At this stage, it cannot be said that there was any provocation on the part of the deceased or that the petitioner had no intention to commit the murder. The fact remains that the petitioner herein was armed with knife and he stabbed the deceased on his eyes and caused penetrating injury to the brain which resulted in his death.

7. Considering the facts and circumstances of the case, I am of the view that it is not a fit case to enlarge the petitioner on bail. Hence, the following:

ORDER

Criminal petition is dismissed.

Liberty is reserved to the petitioner to file a fresh petition before the trial court in case the trial does not commence within six months from today.

**SD/-
JUDGE**

snc