

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 31ST DAY OF JANUARY, 2022

BEFORE

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

CRIMINAL PETITION No.102423/2021

C/W

CRIMINAL PETITION No.102426/2021

IN CRIMINAL PETITION No.102423/2021

BETWEEN:

GANGADHAR ALIAS GANGYA ALIAS GANGAPPA,
S/O. TIPPANA, AGE. 37 YEARS,
OCC. AGRICULTURE AND G.P. MEMBER
R/O. SANGAPUR, TQ. GANGAVATHI,
DIST. KOPPAL -582118.

...PETITIONER

(BY SHRI K.L.PATIL, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH GANGAVATHI RURAL
POLICE STATION,
REPRESENTED BY STATE PUBLIC
PROSECUTOR,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH, DHARWAD-580011.

...RESPONDENT

(BY SHRI V.S.KALASURMATH, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.,
SEEKING TO ALLOW THE PRESENT PETITION AND GRANT BAIL TO
THE PETITIONER/ACCUSED NO.3 IN GANGAVARHI RURAL POLICE
STATION CRIME NO.232/2021 WHICH IS REGISTERED AT SC
NO.79/2021 ON THE FILE OF I ADDITIONAL DISTRICT AND

SESSIONS JUDGE, KOPPAL, SITTING AT GANGAVATHI, FOR THE
OFFENCES PUNISHABLE U/S 302, 201 R/W SECTION 149 OF IPC.

IN CRIMINAL PETITION No.102426/2021

BETWEEN

RAJKUMAR ALIAS RAJU S/O. VIRUPANNA,
AGE 26 YEARS, OCC. HOME GUARD,
R/O. VIRUPAPUR TANDA, TQ.GANGAVATHI,
DIST. KOPPAL 582118.

.....PETITIONER

(BY SHRI K L PATIL, ADV.)

AND

THE STATE OF KARNATAKA
THROUGH GANGAVATHI RURAL POLICE
STATION,
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
DHARWAD BENCH,
DHARWAD-580011.

....RESPONDENT

(BY SHRI V.S.KALASURMATH, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.,
SEEKING TO ALLOW THE PRESENT PETITION AND GRANT BAIL TO
THE PETITIONER/ACCUSED NO.5 IN GANGAVATI RURAL POLICE
STATION CRIME NO.232/2021 WHICH IS REGISTERED AS SC
NO.79/2021 ON THE FILE OF I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, KOPPAL, SITTING AT GANGAVATHI, FOR THE
OFFENCES PUNISHABLE U/S 302, 201 R/W SECTION 149 OF IPC.

THESE CRIMINAL PETITIONS COMING ON FOR ORDERS,
THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Criminal Petition No.102423/2021 is filed by accused No.3 and Criminal Petition No.102426/2021 is filed by accused No.5.

2. Both the petitions are filed under Section 439 of Cr.P.C. to enlarge the petitioners on bail in Cr.No.232/2021 of Gangavathi rural police station.

3. Charge-sheet has been filed against accused Nos.1 to 5 for offences punishable under Sections 302 and 201 of IPC read with Section 149 of IPC. Accused No.6 shown in the First Information Report is a juvenile in conflict with law.

4. Heard the learned counsel for petitioners and the learned High Court Government Pleader for respondent/State and perused the material on record.

5. The deceased is one Hanumesh, brother of the first informant-Shri Parashuram. The sum and

substance of the prosecution case is that there was a love affair between deceased Hanumesh and Anitha (juvenile in conflict with law). Accused Nos.1 and 2 are the parents, accused No.3 is the maternal uncle and accused No.4 is a relative of Anitha. Anitha's marriage was fixed with accused No.5 and their engagement was fixed to be held on the day following the date of incident. On the previous night i.e., on 27.07.2021 at about 11 p.m., deceased took Anitha along with him on a motorcycle. It is alleged that, accused Nos.1 to 5 followed them and caught hold of the deceased near the mango grove of one Sathyashekhar. Accused Nos.1 and 4 held his legs and accused No.2 and the juvenile in conflict with law held his hands. Accused Nos.3 and 5 strangled him by means of a saree and dhoti and committed his murder. Thereafter, in order to cause disappearance of the evidence, they tied one end of the saree and dhoti to the branch of a tree so as to make it appear that it is a case of suicide.

6. The entire case rests on circumstantial evidence as there are no eyewitnesses to the incident in question.

7. The learned counsel for petitioners has relied on the opinion furnished by the doctor wherein it is stated that on perusal of autopsy findings, RFSL report and HPE report, death is consistent with ante mortem hanging. It is therefore contended that even taking into consideration the entire material collected by the prosecution, there is no sufficient material to show that the accused/petitioners have committed the murder.

8. It is contended that the statement of the witnesses recorded by the Police would only show that the deceased and the juvenile in conflict with law on coming to know about the engagement fixed on the next day, eloped from the house and the accused persons and other witnesses have gone in

search of them. It is contended that only on the said allegation, petitioners are falsely implicated.

9. Learned HCGP has contended that there are sufficient materials collected by the prosecution which points the finger at the accused persons that they have committed the murder and there is a strong motive for the petitioners to commit the murder, since, the deceased was in love with Anitha and he had abducted her. He contends that all the accused have followed the deceased and then caught hold of him and strangulated him using a saree and dhoti and committed his murder. He therefore contends that petitioners are not entitled for the relief of bail and further contends that in the event of grant bail to the petitioners, there are chances of fleeing from justice and also threatening the prosecution witnesses.

10. The statements of the witnesses recorded by the Police in the course of investigation goes to

show that on the intervening night of 27-28-07-2021, the accused nos.1 to 3 went to the house of complainant viz., father of the deceased and informed him that Anitha is missing and suspected his son viz., Hanumesh might have abducted her. They informed him that on the next day her engagement has been fixed and therefore, he should help them to find her. According to CWs.21 and 22, they saw accused nos.1 to 5 following the deceased and Anitha at about 11 p.m. on 27.07.2021. It appears that thereafter, accused nos.1 to 3 went to the house of father of the deceased enquiring about his son and Anitha. The prosecution has recorded the statements of witnesses who speak about the motive. However, at this stage, there is no sufficient material to show that the petitioners have committed the murder of Hanumesh. The prosecution has to establish its case in a full fledged trial. The petitioners are arrested and interrogated. Investigation is completed and

charge sheet has been filed. Hence, by imposing stringent conditions, petitioners can be admitted to bail.

11. Accordingly, the following:

ORDER

- i) Petitions are allowed,
- ii) Petitioners/accused Nos.3 and 5 shall be enlarged on bail in S.C.No.79/2021 pending on the file of I Addl. District and Sessions Judge, Koppal, Sitting at Gangavathi (Crime No.232/2021 of Gangavathi Rural Police Station) for offences punishable under Sections 302 and 201 R/w Sec. 149 of IPC. subject to following conditions:

- a. The petitioners shall execute a personal bond in a sum of Rs.1,00,000/-(Rupees one lakh only/-) each with two sureties for like sum to the satisfaction of the jurisdictional Court.

- b. The petitioners shall furnish proof of their residential address and shall inform the Court/Police, if there is any change in the address.
- c. The petitioners shall not tamper the prosecution witnesses either directly or indirectly.
- d. The petitioners shall appear before the Trial court on all dates of hearing without fail.
- e. The petitioners shall not involve in any criminal activities.

The observations made in this order shall be confined to the disposal of this petition.

(Sd/-)
JUDGE

Jm/paragraphs 1 to 6
Hmb/from paragraph 7 till end