



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH
DATED THIS THE 31ST DAY OF JULY, 2024
BEFORE
THE HON'BLE MR. JUSTICE H.P.SANDESH
CRIMINAL PETITION NO. 101970 OF 2024 (439-)**

BETWEEN:

KOTEPPA S/O. MALLAPPA AMBIGAR,
AGE: 40 YEARS, OCC: AGRICULTURE,
R/O. HATTIMATTUR, SAVNUR TQ.,
HAVERI DIST-581118.

...PETITIONER

(BY SRI. B. ANWAR BASHA, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
(THROUGH SAVANUR POLICE STATION),
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DHARWAD-580001.

...RESPONDENT

(BY SRI. PRAVEEN K. UPPAR, AGA)

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Location: HIGH
COURT OF
KARNATAKA
DHARWAD
BENCH
Date: 2024.08.01
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THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. SEEKING TO ALLOW THIS PETITION AND ENLARGE THE PETITIONER/ACCUSED NO.1 ON BAIL IN SC NO.55/2018 IN CONNECTION WITH CRIME NO.150/2018 REGISTERED IN SAVANUR POLICE STATION FOR THE OFFENCES U/S 450, 302, 506, 120B, R/W SECTION 34 OF IPC PENDING TRIAL OF THE CASE BEFORE THE PRL. DISTRICT AND SESSIONS JUDGE HAVERI.

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

CORAM: THE HON'BLE MR. JUSTICE H.P.SANDESH



ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE H.P.SANDESH)

This petition is a successive bail petition and this Court earlier considered the bail petition in Criminal Petition No.100185/2019. This Court, while rejecting the Bail Petition in paragraph No.8, has made an observation that when there are ghastly murder of two persons have taken place and there are eyewitnesses to the incident, recovery also made at the instance of the petitioner and fingerprint also tallies with FSL report, such being the case, this Court has rejected the bail petition. The other grounds urged that the bail also granted in favor of accused No.2 and also opined that granting of bail in favor of the accused No.2 is not a ground to grant the bail in favor of the petitioner, since specific overt act allegation is made against the petitioner that he inflicted injuries with dangerous weapon talvar and as a result, taken life of two persons.

2. The petitioner counsel contends that major witnesses have been examined and only official witnesses are remaining for examination. The petitioner counsel reiterates that accused No.2 has already been granted bail and also



submits that the petitioner is in custody for more than six years and hence, he may be enlarged on bail.

3. Per contra, the counsel appearing for the State submits that apart from 44 witnesses, 22 witnesses have been examined and all the witnesses have supported the case of the prosecution, except nine witnesses have been turned hostile. This Court cannot usurp reserve the jurisdiction of the Trial Court in appreciating the evidence available on record. This Court has already rejected the bail petition, the question of granting bail on the ground that he is in custody for a period of six years is not a ground, when a heinous offense of taking two life is alleged against the petitioner.

4. Having heard the petitioner counsel and also the counsel appearing for the State, having considered the material available on record, more particularly this Court, while rejecting the bail petition vide order dated 05.03.2019, taken note of *prima facie* material collected against the petitioner and detailed order has been passed in paragraph No.8.

5. Having taken note of specific overt act allegation against the petitioner and the petitioner is in custody from last six years is not a ground to enlarge him on bail, when the



prosecution invoked major offence of Section 302 of IPC along with other offences, particularly two murder was taken place and hence, the same is not a ground to enlarge him on bail. The granting of bail in favor of accused No.2, already this Court comes to conclusion that the same cannot be a ground to grant bail against the petitioner, since overt act allegations are made against the petitioner.

6. Hence, I do not find any ground to enlarge the petitioner on bail. On examining the some of the witnesses also, not a ground to enlarge the petitioner on bail. This Court cannot usurp the jurisdiction of appreciating the evidence available on record in a petition under section 439 of Cr.P.C and hence, no ground is made out to grant bail. Hence, the petition stands ***rejected***.

Sd/-
(H.P.SANDESH)
JUDGE

PMP
CT-MCK
List No.: 1 Sl No.: 15