

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21<sup>ST</sup> DAY OF JANUARY, 2015

BEFORE

**THE HON'BLE MR.JUSTICE H.BILLAPPA**

CRIMINAL PETITION No.10/2015

**BETWEEN:**

Kumara,  
Aged about 40 years,  
B.M.T.C. Conductor,  
S/o.Rudregowda,  
Dhari Kongalale Village,  
Mallipatna Hobli,  
Arakalagudu Taluk,  
Hassan-573 102.

...PETITIONER

(By Sri.Chandramouli.H.S., Adv.,)

**AND:**

The State of Karnataka,  
By the Police of  
Konanur Police Station,  
Hassan District-573 102.

...RESPONDENT

(By Sri.B.Visweswaraiah, HCGP)

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This criminal petition is filed under section 438 of Cr.P.C. praying to enlarge the petitioner on bail in the event of his arrest in Crime No.280/14 of Konanur P.S., Hassan Dist. for the offences P/U/S 302 r/w 34 of IPC.

This criminal petition is coming on for Orders this day, the court passed the following:-

**ORDER**

The petitioner who is accused No.1 in the FIR and shown as accused No.4 in the remand application in Crime No.280/2014 of Konanur Police Station has filed this petition under Section 438 of Cr.P.C. praying for grant of anticipatory bail.

2. It is stated in the petition, the petitioner is innocent of the offence alleged against him and he has been falsely implicated in the case. The petitioner is a Conductor in BMTC and he is ready to abide by all conditions that may be imposed by this Court. Therefore, the petitioner has prayed for grant of anticipatory bail.

3. A case in Crime No.280/2014 of Konanur Police Station has been registered against the petitioner and accused No.2-Harisha for the offence punishable under Section 302 r/w Section 34 of IPC. It is alleged that that on 26.11.2014 at about 7.00 a.m., the complainant's husband Jagadisha and her brother-in-law Eregowda had gone to their land for work. They

returned in the evening. Thereafter, the deceased Jagadisha left the house saying that he will bring drip tubes from Kakagodanahalli Krishne Gowda's house. He did not return. On 27.11.2014 at about 11.00 a.m., when the complainant's brother-in-law Eregowda was working in the garden, one Kenchappa told him that somebody has killed Jagadisha. Thereafter, Eregowda informed the complainant. The complainant went to the spot and saw that somebody had killed her husband. It is alleged that the petitioner and accused No.2-Harisha might have killed the deceased Jagadisha.

4. The investigation is going on. In the course of investigation, the statement of accused No.3-Suresha has been recorded. He has stated that the petitioner had promised him to pay ₹.10,00,000/- to finish the deceased Jagadisha.

5. The learned counsel for the petitioner contended that the petitioner is innocent of the offence alleged against him and he has been falsely implicated in the case. The allegation against the petitioner is that he promised accused No.3-Suresha to pay ₹.10,00,000/- to finish the deceased Jagadisha. No over

tact has attributed to the petitioner. The petitioner is ready to join the investigation. Therefore, the petitioner can be granted the anticipatory bail.

6. As against this, the learned Government Pleader submitted that the petitioner is one of the suspects. The voluntary statement of the accused No.3 indicates that the petitioner has instigated the offence. Therefore, the petitioner cannot be granted anticipatory bail.

7. I have carefully considered the submissions made by the learned counsel for the parties.

8. It is relevant to note, it is alleged that on 26.11.2014 at about 7.00 a.m., the deceased Jagadisha and one Eregowda returned from work. Thereafter, the deceased Jagadisha left the house saying that he will bring drip tubes from the house of Kakagodanahalli Krishne Gowda and did not return. On 27.11.2014, at about 11.00 a.m., when the brother-in-law of the complainant was working in the garden, he was informed by one Kenchappa that somebody has killed the deceased Jagadisha.

Thereafter, complainant went there and saw that somebody had killed her husband. In the complaint, it is alleged that the petitioner and accused No.2-Harisha might have killed the deceased. In the course of investigation, the voluntary statement of A3 has been recorded. He has stated that the petitioner had promised him to pay ₹.10,00,000/- to finish the deceased. In turn, he asked accused No.1 to kill the deceased. Thereafter, the accused Nos.1 and 2 have killed the deceased. The allegation against the petitioner is that he has instigated A3 Suresha to kill the deceased. Having regard to the nature of allegation, the petitioner, can be granted anticipatory bail subject to certain conditions.

Accordingly, the criminal petition is allowed and the petitioner is granted anticipatory bail subject to the following conditions:

- i) In the event of his arrest in Crime No.280/2014 of Konanur Police Station the petitioner shall be released on bail on his executing a bond for a sum of ₹50,000/- with one surety for the like

sum to the satisfaction of the Investigating Officer.

- ii) The petitioner shall appear before the I.O. within four days from today and shall co-operate with the I.O. for investigation as and when required.
- iii) The petitioner shall not tamper with the witnesses or evidence.
- iv) If charge sheet is filed against the petitioner, the petitioner shall appear before the Court regularly without fail.
- v) If the petitioner violate any condition, the respondent-State can move for cancellation of the Bail.

**Sd/-  
JUDGE**

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