

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 31<sup>st</sup> DAY OF OCTOBER 2014

BEFORE

THE HON'BLE MR. JUSTICE A.V.CHANDRASHEKARA

CRIMINAL PETITION NO.5722 OF 2014

BETWEEN:

SRI SHARAN SHETTY,  
S/O LATE VISHWANATH SHETTY,  
AGED ABOUT 24 YEARS,  
R/AT PREMA SHETTY NILAYA,  
THOKOOR, NEAR SHEDIGURI  
ANGANAVADI SCHOOL,  
62, THOKOOR VILLAGE,  
MANGALORE TALUK – 575 201.

...PETITIONER

(BY SRI. VISHWAJITH SHETTY S, ADVOCATE)

AND:

STATE OF KARNATAKA,  
REPRESENTED BY CCB,  
MANGALORE,  
REPRESENTED BY STATE  
PUBLIC PROSECUTOR,  
HIGH COURT BUILDING,  
BANGALORE – 560 001.

...RESPONDENT

(BY SRI.K.NAGESHWARAPPA, HCGP)

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THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN CRIME NO.39/14 SURATHKAL P.S., MANGALORE CITY AND IN S.C. NO.53/14 ON THE FILE OF THE II ADDL. DIST. AND S.J., D.K., MANGALORE, FOR THE OFFENCES P/U/S 302, 201 R/W 34 OF IPC.

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

### **ORDER**

The petitioner who is accused No.3 in a case bearing Crime No.39/14 on the file of Surathkal Police Station for the offences punishable under Sections 302 and 201 read with Section 34 of IPC. There are in all four accused.

2. The allegations made against this petitioner and the other three accused is that all of them came in a car and stabbed one person in a bus travelling from Mangalore to Manipal on 04.02.2014 after intercepting the said bus near Surathkal. Then this petitioner and others got into the bus and dragged deceased Prakash

and brought him out of the bus and assaulted him with deadly weapons indiscriminately and caused his death there itself. On the basis of statement of Mr. Dinesh, the driver of the said bus in which the deceased was travelling case has been registered on 04.02.2014.

3. Learned HCGP has vehemently opposed the bail application on the ground that it is too premature to disbelieve the materials collected by the police and that discretion may not be exercised at this stage, more particularly, in the light of the circumstances under which gruesome murder was committed.

4. Heard the learned counsel for the petitioner and perused the records. What is argued before this court is that the petitioner was unknown to the first informant and the identification was done only in the police station and therefore this is not an identification which is admissible in law. Hence he has argued that

petitioner is entitled to be released on bail. It is to be seen that the murder of the deceased Prakash was done in a broad day light on a high way, that too after dragging him from the bus by assaulting with deadly weapons in presence of the first informant and other inmates of the bus. Whether the said identification is admissible in law or not is a matter of evidence to be considered in the trial. It is too premature to disbelieve the materials collected by the police. Taking into consideration the gravity of the offence and the alleged ill will the accused had towards the deceased, this is not a fit case to exercise the discretion at this stage. Hence the petition is dismissed.

**SD/-  
JUDGE**

ykl