

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF DECEMBER, 2010

BEFORE

THE HON'BLE MR. JUSTICE A.N. VENUGOPALA GOWDA

CRIMINAL PETITION NO.6001/2010

BETWEEN:

AMBANNA
S/O TUKARAM JAMADAR
AGED ABOUT 28 YEARS
OCC: AGRICULTURE
R/O BHOSGA, AFZALPUR TALUK
GULBARGA DISTRICT

... PETITIONER

(BY SRI K A CHANDRASHEKARA, ADV.)

AND:

THE STATE OF KARNATAKA
BY THE POLICE OF
AFZALPUR POLICE STATION
GULBARGA DISTRICT.

... RESPONDENT

(BY SRI N.S.SAMPANGIRAMAIAH, HCGP)

THIS CRL.P IS FILED U/S.439 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.184/09 OF AFZALPUR P.S., GULBARGA DISTRICT, WHICH IS REGD., FOR THE OFFENCE P/U/S 143, 147, 148, 341, 307, 120(B) R/W 149 OF IPC. THE III ADDL. S.J. GULBARGA HAS REJECTED THE BAIL PETITION ON 12.7.10 IN CRL.MISC.NO.667/10.

This petition coming on for orders, this day, the Court made the following:

ORDER

The petitioner is accused No.7 in Crime No.184/2009 of Afzalpur Police Station. The case was registered for the offences under Sections 341 & 307 read with 34 I.P.C and Sections 25 & 27 of Arms Act. After the death of the deceased, the offence has been converted to one under Section 302 I.P.C.

2. In the complaint it was alleged that, at about 6:30 p.m on 23.10.2009, while he was going along with one Sidrama Jamadara in the motor cycle, driven by Sidrama, when they reached Shirwal Road, one Vithal Metre and Naganna Allagi were standing by the side of the road and requested them to give their motor cycle in exchange. The motor cycles were exchanged and at a distance of 4 Km of Bhosaga Cross, three persons covering their faces with red colour cloths, took their motor cycle by the side of their bike and overtook them and blocked their way and the pillion rider of that motor cycle fired towards



Sidram with a pistol. Fearing further attack, Sidram ran towards the village, but, the unknown persons followed him leaving their motor cycles at the spot. The complainant states that, he ran away out of fear and picked up the bus and thus reached Afzalpur police station.

3. Sidram having succumbed to the injury while taking treatment, the offence under Section 302 I.P.C was added. The complaint filed was against unknown persons. In the further statement of the complainant dated 17.11.2009, the petitioner and others were named as assailants on the deceased. The police having conducted the investigation have filed the charge sheet against 10 persons, which includes the petitioner, who has been arrayed as accused No.7.

4. Sri K.A.Chandrashekara, learned counsel for the petitioner contends that, the petitioner has been made a scape goat of the circumstances and that the petitioner having been falsely implicated has been in custody since from 04.05.2010. Learned counsel submits that, the other



accused persons have been enlarged on bail and the petitioner is entitled to the relief on the principles of parity.

5. Sri N.S.Sampangiramaiah, learned HCGP, on the other hand contends that, a country made pistol has been recovered and the death as per the post mortem report is due to shock and haemorrhage, due to gunshot and cut injury and hence, the petitioner is not entitled to the bail.

6. Indisputedly, the other accused persons have been enlarged on bail either by the Sessions Court or by this Court. This Court in CrI.P.Nos.8846/2010 & 8904/2010 has admitted some of the accused persons in the case to bail. Having regard to the facts and circumstances of the case, since the investigation is complete and the custodial presence of the petitioner is unnecessary, in my opinion, the petitioner can be admitted to bail on the following conditions:

- i. the trial court is directed to release the petitioner on bail, on he executing the personal bond for



Rs.1,00,000/- with two sureties for the like sum, to its satisfaction,

- ii. the petitioner shall visit the police station once in 15 days for a period of three months,
- iii. the petitioner shall appear before the Sessions Court on all the dates of hearing and enable the court to conclude the trial without delay,
- iv. the petitioner shall not leave the local limits of Karnataka without the prior permission of the Sessions Court,
- v. the petitioner shall not tamper with the prosecution witnesses and materials,
- vi. the petitioner shall not involve himself in any non-bailable offence.

7. In case of violation of any of the conditions by the petitioner, it is open to the prosecution to seek cancellation of bail of the petitioner and order for his surrender.

Petition stands allowed accordingly.

Sd/-
JUDGE

Ksj/-