



CRL.P No. 102440 of 2022

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 15TH DAY OF SEPTEMBER, 2022

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION NO. 102440 OF 2022

BETWEEN:

SURESH T @ VIKKI S/O. CHANNAPPA T,
AGE: 44 YEARS, OCC. DRIVER,
R/O. NEAR GOVERNMENT SCHOOL,
VINAYAK NAGAR,
BALLARI-583201.

...PETITIONER

(BY SRI. B.ANWAR BASHA, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
(THROUGH RURAL P.S. BALLARI)
REPRESENTED BY ITS,
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
AT DHARWAD-580001.

...RESPONDENT

(BY SRI. PRASHANTH V.MOGALI, ADVOCATE)



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.66/2021 IN CONNECTION WITH CR.NO.106/2021 REGISTERED IN RURAL POLICE STATION BALLARI, FOR THE OFFENCES UNDER SECTIONS 302 AND 504 OF IPC, PENDING TRIAL OF THE CASE BEFORE II ND ADDITIONAL DISTRICT AND SESSIONS JUDGE, BALLARI.



CRL.P No. 102440 of 2022

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

ORDER

This petition is filed by the sole accused under Section 439 of The Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.', for brevity) seeking bail in Crime No.106/2021 of Bellary Rural Police Station, registered for the offences punishable under Sections 302 and 504 of The Indian Penal Code (hereinafter referred to as the 'IPC', for brevity) and pending for trial in SC No.66/2021 on the file of the learned II Additional District & Sessions Judge, Ballari.

2. The case of the prosecution is that, one Ganganna had filed complaint stating that the petitioner/accused has taken Rs.10,000/- hand loan from the deceased Lokesh but he did not returned the said amount, due to which the deceased Lokesh had quarreled with the petitioner/accused to return the said amount and



CRL.P No. 102440 of 2022

insulted him in public place. That on 06.04.2021 at about 06:30 p.m. when the petitioner/accused was standing near Ayyappa Swamy Temple situated at Vinayak Nagar, at that time, the deceased Lokesh went to the said spot and asked the petitioner/accused to return the said amount and at that time at about 07:30 p.m., the petitioner/accused took the deceased Lokesh backside of the temple by saying to return the said amount and abused him in filthy language, assaulted him with hands, pushed him forcefully and when deceased Lokesh fell down on the ground, at that time, the petitioner assaulted him with stone on his head and forehead with force and committed his murder. The Police after investigation filed charge sheet. The petitioner came to be arrested on 07.04.2021 and he is in judicial custody. The petitioner filed bail application in SC No.66/2021 and the same came



CRL.P No. 102440 of 2022

to be rejected by the learned II Additional District & Sessions Judge, Ballari by order dated 02.08.2022. Therefore, the petitioner is before this Court seeking bail.

3. Heard the arguments of the learned counsel appearing for the petitioner and the learned High Court Government Pleader for the respondent-State.

4. Learned counsel for the petitioner would contend that, there are no eyewitnesses to the incident and the case of the prosecution is based on circumstantial evidences. Evidences of complainant and one Panch witness have already been recorded and they have not supported the case of the prosecution. As per the charge sheet papers, the petitioner alleged to have assaulted with stone fallen on the spot. The petitioner came to be implicated only based on his voluntary statement. As the charge sheet is filed, the



CRL.P No. 102440 of 2022

petitioner is not required for any custodial interrogation. With this, he prayed to allow the petition.

5. *Per contra*, learned High Court Government Pleader would contend that in the complaint itself it is specifically stated that somebody has intimated the complainant that the petitioner/accused was quarrelling with the deceased and therefore he went to the spot along with his wife and Danunjaya and at that time an Auto of the deceased was standing there and body of the deceased was fallen there and there were injuries on his face and head and the persons gathered told him that the petitioner/accused quarreled with the deceased at 07:00 p.m. and assaulted him with stone fallen there on his head and forehead and caused his death. The statement of the petitioner/accused has been recorded wherein, he has stated regarding he assaulting the



CRL.P No. 102440 of 2022

deceased with the stone. It is said that the stone has been recovered under the Mahazar. The Doctor who conducted post mortem examination has opined that the cause of death is due to 'Head Injuries' sustained consequent upon 'Blunt Impact Trauma'. The trial is commenced and some witnesses have been examined and some are yet to be examined, if at this stage, the petitioner is granted bail, there are chances of he threatening other witnesses who are to be examined. The charge sheet shows *prima facie* case against the petitioner/accused for the offences alleged against him. With this, he prayed to reject the petition.

6. Having regard to the submission made by the learned counsel for the petitioner and the learned High Court Government Pleader, this Court has gone through the charge sheet records.

7. The accusation against this petitioner/accused is that, he had borrowed Rs.10,000/- from



CRL.P No. 102440 of 2022

the deceased. The deceased was insisting the petitioner/accused to repay the same and once he insulted him in public demanding money, therefore, enraged by that the petitioner/accused quarreled with the deceased on 06.04.2021 and assaulted him with stone fallen there on his head and forehead, caused injuries and committed his murder. The stone fallen on the spot has been recovered under Mahazar. In the complaint itself it is stated that the persons gathered intimated the complainant regarding the petitioner assaulting the deceased with stone. The case of the prosecution is based on circumstantial evidences. The petitioner/accused has been last seen with the deceased at 06:30 p.m. on 06.04.2021 quarreling with him. CW15-Harshawardhan in his statement has stated that on 06.04.2021 at 06.30 p.m., when he was moving from Ballari to Allipur Village in Vinayak Nagar situated at Ballari – Hospet Road



CRL.P No. 102440 of 2022

near Ayyappa Swamy Temple he saw deceased and accused were quarreling. Thereafter, deceased was found dead at 07:30 p.m. On perusal of the charge sheet, there is *prima facie* case against the petitioner/accused for the offences alleged against him. Now trial is commenced, some witnesses are examined and the remaining prosecution witnesses are to be examined. If the petitioner/accused is granted bail, there are chances of he threatening the remaining prosecution witnesses who are to be examined. Merely because PW1 and PW3 have not supported the case of the prosecution is not a ground for granting bail at this stage when other witnesses are to be examined. The petitioner has not made out any grounds for granting bail. Hence, petition is dismissed.

**Sd/-
JUDGE**

RH