

IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH

DATED THIS THE 1ST DAY OF DECEMBER 2016

BEFORE

THE HON'BLE MR. JUSTICE S.N. SATYANARAYANA

CRIMINAL PETITION No.101367/2016

BETWEEN:

1. SRI.MANJUNATH
S/O PARAMANANDA NAYAK,
AGED: 22 YEARS,
OCC: AGRICULTURE,
R/O: HULIHYDER VILLAGE,
TQ: GANGAVATHI TALUQA,
KOPPAL DISTRICT.
2. SRI.YAMANOORAPPA
S/O MAREPPA CHANNADASAR,
AGED: 27 YEARS,
OCC: AGRICULTURE,
R/O: HULIHYDER VILLAGE,
TQ: GANGAVATHI TALUQA,
KOPPAL DISTRICT.

... PETITIONERS

(By SRI : A.C.PURAD, ADVOCATE FOR SRI V.S. KALASURMATH)

AND

STATE OF KARNATAKA,
BY KOPPAL POLICE STATION,
NOW THROUGH THE CID3
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DHARWAD.

... RESPONDENT

(By Sri : PRAVEEN K UPPAR, HCGP)

THIS CRIMINAL PETITION IS FILED U/SEC.439 OF CR.P.C., SEEKING TO ALLOW THE ACCOMPANYING PETITION AND BE FURTHER PLEADED TO ENLARGE THE PETITIONERS BEING ARRAIGNED AS ACCUSED NOS. 8 AND 9 ON BAIL IN S.C.NO. 49/2015 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 504, 302, 201 READ WITH SECTION 149 IPC ARISING OUT OF KOPPAL TOWN POLICE STATION IN CRIME NO. 0063/2015.

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

ORDER

Accused Nos.8 and 9 in SC.49/2015 pending on the file of Sessions Court, Koppal have come up in this petition seeking their enlargement on bail. Admittedly, the present petition filed under Section 439 of Cr.PC., is third in the series of their attempt to get bail in the aforesaid proceedings.

2. Brief facts leading to this petition are as under:

The proceedings in SC.49/2015 is commenced from first of the complaints which was registered by Superintendent of Police, Gadag Railway Police in UDR.2/2015 with reference to finding of an unknown body on the railway track within the limits of Koppal Railway Station followed by second complaint dated 18.2.2015 filed

by the sister of victim, who subsequently identified the body as that of her brother Yellalinga of Kanakapura village, Gangavathi Taluk, Koppal District. The third complaint which is registered with Koppal Town police is again by Manjula, sister of victim which reached Koppal Police Station through Superintendent of Police, Koppal, for the offence punishable under Sections 34, 201 and 302 of IPC with reference to homicidal death of Yellalinga, brother of complainant/Manjula.

3. The material on record would indicate that deceased Yellalinga was a social activist. He had complained to Suvarna Siri Channel regarding substandard quality of contract work by various persons within the district of Gangavathi, thereby exposing their activities in carrying out cheap construction work and cheating the Government for money. When said news item was published at the instance of Yellalinga, it is stated that he gained enmity of several persons who formed themselves into an unlawful assembly to put an end to his life

inasmuch as the persons who were identified by them to do this act hunted him down in the railway station which resulted in death note being written by victim before succumbing to the injuries caused due to the assault on him.

4. Initially when body of victim was found, the same was registered as finding of an unknown body. It is stated that immediately his brother identified the body of Yellalinga and he took possession of the same and consigned it to flames in front of railway station itself. Thereafter, complaint is filed by the sister of victim stating that his brother's death is not natural death but it is a homicidal death. Hence, investigation is required to be conducted. Though second complaint is registered on 18.2.2015 with Gadag Police, no investigation was conducted by them resulting in third complaint being filed by sister of victim - Manjula with the assistance of Superintendent of Police, Koppal, which is subsequently registered with Koppal Town police in Crime No.63/2015

which has led to investigation being conducted and charge sheet being filed against various persons including the petitioners herein who are arraigned as accused Nos.8 and 9 in the said proceedings.

5. The statements which are said to have recorded by police would indicate the role of petitioners herein in causing homicidal death of victim - Yellalinga. It is also necessary to place on record that prior to filing of this petition three other petitions were filed by the very same petitioners seeking their enlargement on bail before the Court of Sessions. One was under Section 438 of Cr.PC., seeking anticipatory bail which was rejected resulting in petitioners herein surrendering before the jurisdictional police and thereafter being taken into custody. Subsequently the two petitions, which are filed before the Sessions Court seeking regular bail, were rejected. Third one is before this Court.

6. Heard the learned counsel for petitioners as well as learned HCGP for prosecution. On going through the

material on record the death of victim - Yellalinga is seen as a heinous crime not only against an individual but also a crime in suppressing the voice of protest in such brutal manner. The persons who are accused all appears to be well to do and respectable (?) in the society. To establish their so-called pseudo respectability they are seeking their enlargement on bail as if it is readily available for asking. The court below has rightly rejected their application under Section 438 of Cr.P.C., initially and also 439 Cr.P.C., subsequently on two occasions.

7. This Court on going through the orders passed by the Sessions court in earlier round of petitions seeking bail feel that the reason given therein appears to be just and proper. The proceedings in SC.49/2015 is said to be at the stage of recording of evidence wherein the evidence of CWs.1 to 5 is already completed as PWs.1 to 5 and there are many more witnesses to be examined in that proceedings. Considering the fact that petitioners and other accused in the said proceedings being moneyed

people having their tentacle spread over in all departments where they can use influence, if they are enlarged on bail it is bound to affect the prosecution, more particularly in recording of evidence where possibility of tampering the evidence cannot be ruled out.

8. In that view of the matter, this Court feel that the present petition is required to be dismissed. While doing so, it is observed that not only the petitioners herein but any other accused in the aforesaid proceedings shall not be entitled to seek their enlargement on bail until the trial in SC.49/2015 is complete, for the reason that any one of them being let out on bail are likely to hamper the entire prosecution beyond redemption. This observation is necessary not only in the petition filed by petitioners herein but also in the petition if any to be filed by other accused.

With the aforesaid observation, this petition is dismissed.

Sd/-
JUDGE

nd/-