
(2023) 10 KAR CK 0050

Karnataka High Court At Bengaluru

Case No: Criminal Petition No. 9931 Of 2023

Gangadhara @ Ganga

APPELLANT

Vs

State Of Karnataka By
Nagamangala Rural
Police Station
Nagamangala Taluk,
Mandya District Rep.
By Its Pp High Court
Building, Bangalore -
560001

RESPONDENT

Date of Decision: Oct. 25, 2023

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 34, 120B, 201, 302

Hon'ble Judges: H.P. Sandesh, J

Bench: Single Bench

Advocate: Rajanna C, K Nageshwarappa

Final Decision: Allowed

Judgement

H.P. Sandesh, J

1. Heard the learned counsel appearing for the petitioner and the learned HCGP appearing for the State.

2. This is a successive bail petition. Earlier, this Court rejected the bail petition of this petitioner on the ground that the case was rest upon the

circumstantial evidence taking into note of the fact that the towel, liquor pouch as well as the water bottle were recovered at the instance of this

petitioner and apart from the said recovery, the last seen witness i.e., the petrol bunk owner had witnessed this petitioner, accused No.1 and the

deceased who went to his petrol bunk and got filled the petrol to their respective vehicle. Having taken note of the recovery of the articles and theory

of the last seen witness and also the ligature mark on the neck of the deceased, this Court comes to the conclusion that there is a motive to commit the

murder and rejected the bail petition.

3. The learned counsel for the petitioner would vehemently contend that all the witnesses including the relative witnesses i.e., the brother, father and

wife of the deceased have been examined before the Trial Court and all are not supported the case of the prosecution. The counsel for the petitioner

also brought to notice of this Court that PW12 who is the mahazar witness with regard to the recovery and PW18 who is the Manager of the petrol

bunk have also not supported the case of the prosecution and hence, no purpose will be served in keeping the petitioner in custody when the material

witnesses have been examined and only investigation witnesses yet to be examined and hence, he may be enlarged on bail.

4. Per contra, the learned HCGP who appears for the State would vehemently contend that the witnesses who have been examined including the

relative witnesses have turned hostile and they have been cross-examined by the public prosecutor and this Court cannot appreciate the evidence

available on record invoking the jurisdiction of Section 439 of Cr.P.C.

5. Having heard the learned counsel appearing for the respective parties and also on perusal of the material on record it discloses that this Court

earlier rejected the bail petition of this petitioner on the ground that the case was rest upon the circumstantial evidence and recovery of the articles

were also made at the instance of this petitioner. Now the recovery witnesses have been examined and they have not supported the case of the

prosecution and PW12 who is the mahazar witness with regard to the recovery and PW18 who is the Manager of the petrol bunk and last seen

witness have also not supported the case of the prosecution. Apart from that PW1 and PW4 who are the brother and father of the deceased and

PW16 is the wife of the deceased have also not supported the case of the prosecution and the motive alleged to commit the murder is that the

deceased is not taking care of the sister of accused No.1 and accused No.1 took the assistance of accused No.2 in eliminating the deceased. The

material witnesses have been turned hostile and only remaining witnesses are investigating witnesses. When such being the case, it is a fit case to

exercise the discretion to enlarge the petitioner on bail and no purpose will be served in keeping him in custody when main witnesses have been

examined before the Trial Court and they have turned hostile to the case of the prosecution.

6. In view of the discussions made above, I pass the following:

ORDER

The petition is allowed. Consequently, the petitioner/accused No.2 shall be released on bail in connection with Crime No.129/2021 of Nagamangala

Rural Police Station, Nagamangala taluk, Mandya District for the offences punishable under Sections 302, 201, 120B read with Section 34 of IPC,

subject to the following conditions:

(i) The petitioner shall execute his personal bond for a sum of Rs.2,00,000/- with two sureties for the like-sum to the satisfaction of the jurisdictional

Court.

(ii) The petitioner shall not indulge in tampering the prosecution witnesses.

(iii) The petitioner shall appear before the jurisdictional Court on all the future hearing dates, unless exempted by the Court for any genuine cause.

(iv) The petitioner shall not leave the jurisdiction of the Trial Court without prior permission of the Court till the case registered against them is

disposed of.