

(2024) 12 KAR CK 0046

Karnataka High Court At Bengaluru

Case No: Criminal Petition No. 12798 Of 2024

Michael Raj

APPELLANT

Vs

State Of Karnataka By
Bommanahalli Police, Bengaluru,
Represented By State Public
Prosecutor, Bengaluru-560001

RESPONDENT

Date of Decision: Dec. 18, 2024

Acts Referred:

- Bharatiya Nyaya Sanhita, 2023 - Section 103
- Bharatiya Nagarik Suraksha Sanhita, 2023 - Section 483

Hon'ble Judges: S Vishwajith Shetty, J

Bench: Single Bench

Advocate: Nanjunda Gowda M.R, K.Rahul Rai

Final Decision: Allowed

Judgement

S Vishwajith Shetty, J

1. Accused in Spl.C.C.No.2031/2024 pending before the court on the L Addl. City Civil and Sessions Judge and Special Judge, Bengaluru, arising out

of Crime No.269/2024 registered by Bommanahalli Police Station, Bengaluru for the offence under Section 103 of BNS, 2023 is before this Court

under Section 483 of BNSS, 2023 seeking regular bail.

2. Heard the learned counsel for the parties.

3. First Information Report in Crime No.269/2024 was registered by Bommanahalli Police Station, Bengaluru against the petitioner herein for the

aforesaid offences on the basis of first information dated 09.07.2024 received from Ramya Kumari @ Ramya, who is the mother of the deceased boy

Ashwin. During the course of investigation of the case, the petitioner herein was arrested on 10.07.2024 and subsequently remanded to judicial custody. Investigation is completed and charge sheet has been filed against the petitioner for the offence under section 103 of BNS, 2023. The bail application before the trial court in CrI.Misc.No.9370/2024 was rejected on 22.10.2024. Therefore the petitioner is before this court.

4. Learned counsel for the petitioner submits that petitioner is married man having no criminal antecedents. Even if the charge sheet materials are presumed to be true, it becomes doubtful that he had any intention to commit the murder of deceased boy. There is an inordinate delay in lodging the first information. Investigation of the case is completed and therefore custody of the petitioner is no more required. Hence he prays for allowing the petition.

5. Per contra, learned HCGP has opposed the petition. He submits that there are sufficient circumstances to connect the petitioner to the crime. The petitioner has repeatedly assaulted the deceased minor boy and as a result he has died. He prays to dismiss the petition.

6. Perusal of the material available on record goes to show that first informant who had deserted her husband was residing separately along with her two children, Kumari Yashree, aged about 5 years and Master Ashwin, aged about 3 years. Accused who was also married had deserted his wife and was residing separately. It appears that accused/petitioner had developed illicit relationship with the first informant and was regularly visiting her house. Deceased boy Ashwin who was the younger son of the first informant was very much attached to his mother and the petitioner was under an impression that Ashwin was an obstruction for his illicit relationship with the first informant. Therefore he had ill will against Ashwin. On the intervening night of 6.7.2024 and 7.7.2024, he allegedly assaulted Ashwin at about 1.00 a.m. in the midnight. When the petitioner had assaulted Ashwin with his hands, Ashwin's head had dashed against the cement block in the bathroom. Ashwin who had suffered the said injury had slept in his house, but at about 3.30 a.m., he got up and started crying. Therefore the petitioner and the first informant took him to a hospital at about 4.00 a.m.

and on medical advice they shifted him to a better hospital and ultimately admitted him to NIMHANS at Bengaluru. However, on 8.7.2024 at about

11.56 p.m Ashwin had died in the hospital while undergoing treatment. First information is belatedly lodged on 9.7.2024 at about 18.10 hours. The

reason for delay in lodging the FIR has not been explained. Be that as it may, even from the reading of the charge sheet allegation, it is found that

after the injured Ahswin had slept in his house on the intervening night of 6.7.2024 and 7.7.2024, he all of a sudden got up at 3.30 a.m. and started

crying with pain and therefore it was the petitioner and the first informant who had shifted the injured minor boy to the hospital. The material on record

goes to show that the injured had not suffered any external injuries on his body. It appears that as a result of the minor boy's head dashing against

the cement block in the bathroom, he had suffered certain internal injuries in his head and as a result he has died. Post mortem report of the deceased

would go to show that death was as a result of severe traumatic pain injury in a post operated case leading to cardio pulmonary arrest. The petitioner

has no other criminal antecedents. Investigation is completed and charge sheet has been filed. Under these circumstances, I am of the view that the

petitioner's prayer for grant of bail has to be answered affirmatively. Accordingly, the following:

ORDER

The petition is allowed. The petitioner is directed to be enlarged on bail in Crime No.269/2024 registered by Bommanahalli Police Station, Bengaluru,

for the offences punishable under Sections 103 of BNS, 2023, subject to the following conditions:

a) Petitioner shall execute personal bond for a sum of Rs.1,00,000/- with two sureties for the likesum, to the satisfaction of the jurisdictional Court;

b) The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid

reasons;

c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioner shall not involve in similar offences in future;

e) The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.