

Mahesha Vs State Of Karnataka By SHO, Saraswathipuram PS, Mysuru City Rep By S.P.P. High Court Of Karnataka, Bengaluru-560001

Court: Karnataka High Court At Bengaluru

Date of Decision: Jan. 25, 2025

Acts Referred: Indian Penal Code, 1860 " Section 34, 120B, 302

Hon'ble Judges: Mohammad Nawaz, J

Bench: Single Bench

Advocate: Nisar Sab, Asma Kouser

Final Decision: Dismissed

Judgement

Mohammad Nawaz, J

CAV ORDER

1. Petitioner/accused No.2 in S.C.No.141/2022 on the file of the Court of III Additional District and Sessions Judge, Mysuru has preferred this petition

to enlarge him on bail.

2. Heard the arguments of the learned counsel for petitioner and learned Additional SPP for the State.

3. FIR in Crime No.147/2021 of Saraswathipuram Police Station, Mysuru City was registered on 12.12.2021 against accused Nos.1 and 2 for the

offence punishable under Section 302 r/w 34 of IPC, on a complaint lodged by one Nagaraj s/o late Billishetty.

4. The brief facts narrated in the complaint are that, the informant's nephew Krishna @ Tibet and one Ravi @ Oti and accused Nos.1 and 2

came to Mysuru for coolie work about 15 days prior and they were residing in a shed belonging to one Dinesh of Guru Associates, where bricks and

stones were being sold. The accused were always quarrelling with complainant's nephew. On 11.12.2021 at about 10.20 p.m., the

Saraswathipuram Police informed him about the murder of two persons near Sri Guru Associates, Bogadi Gaddige Main Road at Yeshodhara Layout.

He went to the spot and noticed that both Krishna @ Tibet and Ravi @ Oti were murdered. He suspected accused Nos.1 and 2 and lodged the

complaint accordingly.

5. Charge sheet is filed against accused Nos.1 and 2 for the offence punishable under Section 302, 120B r/w 34 of IPC. Briefly stated, case of the

prosecution is that CW.9-wife of accused No.1 had deserted his company and she was residing separately and since then, accused No.1 was close to

accused No.2 and therefore, the deceased were teasing them. Further, there was also a quarrel between them in connection with some temple matter,

hence there was enmity. On 11.12.2021 at about 10.20 p.m., deceased Ravi @ Oti started teasing accused No.1 raking up the issue of his wife.

Accused No.1 picked a spade and hit him on his face and when deceased Krishna @ Tibet, intervened and pushed both the accused, accused No.2

took the spade from accused No.1 and assaulted on his head and both the accused fled away from the spot.

6. The learned counsel for petitioner has contended that there is no direct evidence and only on suspicion, first informant has lodged a complaint

against the accused. There are no materials to show the involvement of the petitioner, except that the accused were residing with the deceased at the

time of incident. No motive is attributed against the petitioner and he has been falsely implicated in the case.

7. The learned counsel further contended that the petitioner was arrested on 12.12.2021 and therefore, he is in judicial custody for more than three

years. There is delay in conducting trial. So far only four witnesses are examined and no incriminating evidence has appeared against the petitioner.

The evidence of the first informant/PW.1 does not incriminate the petitioner and he has been treated hostile by the prosecution. There is no prospect

of petitioner being convicted by the trial Court.

8. Learned counsel submitted that the petitioner hails from a respectable family, having deep roots in the society. He is ready and willing to abide by

any conditions which may be imposed by the Court and accordingly, sought to allow the petition.

9. Per contra, the learned Additional SPP has contended that the accused have committed brutal murder of two persons. Prosecution has collected

sufficient materials against them. After their arrest a blood stained spade and a towel are seized and subjected to PF No.124/2021. The trial is in

progress. Accused No.1 is in custody. If the petitioner/accused No.2 is enlarged on bail, he may tamper with the prosecution witnesses and thereby

hamper the case of prosecution. She has accordingly sought to dismiss the petition.

10. This is a case of double murder wherein, the accused have allegedly assaulted both the deceased with a spade and committed their murder. As

per post mortem report deceased Krishna @ Tibet has sustained about 8 injuries and Ravi @ Oti has sustained 9 injuries. The deceased and the

accused were together residing in a shed. Incident took place on the night of 11.12.2021. The dead bodies were found with injuries on 12.12.2021.

Blood stained spade and towel have been recovered at the instance of the accused. The first informant has stated about the quarrel between the

deceased and accused. Hence, it cannot be said at this stage that there are no materials against the petitioner or he is falsely implicated in the case.

11. The trial is in progress. The evidence led before the trial Court cannot be discussed in this petition seeking bail. Observations if any made on the

merits of the case, may prejudice both the parties. Considering that the offence alleged is punishable with death or imprisonment for life, period

undergone in custody by the petitioner is not a ground for bail.

12. For the foregoing reasons, petition is dismissed.

13. The accused is in judicial custody from 12.12.2021. The material placed on record shows that only four witnesses are examined so far, as against

49 witnesses cited in the charge sheet. In that view of the matter, the trial Court is directed to expedite the trial.

Observations made herein above are confined to the disposal of this petition and shall not have any bearing on the trial of the case.