



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF OCTOBER, 2023

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL APPEAL NO. 1645 OF 2023

BETWEEN:

DINESH S
S/O SUBRAMANI,
AGED ABOUT 30 YEARS,
R/AT C/O MUNIRAJAPPA BUILDING,
CHOKKASANDRA, 12TH CROSS,
T DASARAHALLI,
BANGALORE 560057

...APPELLANT

(BY SRI. LAKSHMIKANTH K, ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
MADANAYAKANAHALLI POLICE STATION,
BANGALORE RURAL DISTRICT,
REP BY ITS PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE 01

2. SRI JAYANNA G
S/O LATE GURUMURTHAPPA,
AGED ABOUT 48 YEARS,
R/AT ASHOK KHENI LAYOUT,
MADAVARA VILLAGE,
DASANAPURA HOBLI,
BANGALORE RURAL DISTRICT,
PIN 560057

...RESPONDENTS

(BY SRI. RANGASWAMY R, HCGP FOR R1
R2 SERVED AND UNREPRESENTED)





THIS CRL.A IS FILED U/S.14(A)(2) OF SC/ST (POA) ACT PRAYING TO SET ASIDE THE ORDER DATED 05.08.2023 IN CRL.MISC.NO.1374/2023 PASSED BY THE LEARNED II ADDITIONAL DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL DISTRICT, BENGALURU AND RELEASE THE APPELLANT ON BAIL FOR THE OFFENCE P/U/S 143, 147, 148, 341, 302, 109, 120B, 150 R/W 149 OF IPC AND SEC.3(2)(v) OF SC/ST (POA) ACT IN THEIR CR.NO.427/2021 IN SPL.C.NO.903/2021, PENDING ON THE FILE OF II ADDITIONAL DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL DISTRICT, BENGALURU.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

Appellant - accused No. 3 has filed this appeal seeking to set aside the order dated 05.08.2023 passed in Crl.Misc. No. 1374/2023 by the II Additional District and Sessions Judge, Bengaluru Rural District, Bengaluru rejecting the bail petition of appellant - accused No. 3 sought in crime No. 427/2021 of Madanayakanahally Police Station for the offence punishable under Section 143, 147, 148, 302, 109, 120-B read with Section 149 IPC and Section 3(2)(v) of Schedule Caste Schedule Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the `SCST (POA) Act`) came to be rejected.



2. Heard learned counsel for appellant - accused No. 3 and learned HCGP appearing for respondent No. 1 - State. In spite of service of notice, respondent No. 2 remained absent and unrepresented.

3. Case of the prosecution as per charge sheet is that the deceased Kiran Kumar, son of C.W.1 had illicit relationship with accused No.4 since 2015. Four months prior to 05.09.2021, accused No.4 had illicit relationship with accused No.1. When the deceased came to know about it, he made galata with accused Nos.1 and 4 and assaulted accused No.4 due to which accused Nos.1 to 5 conspired to kill the deceased. Accused Nos. 1 and 4 gave supari to accused Nos.2 and 3 in a sum of Rs.1,00,000/- and gave advance of Rs.10,000/-. Accused No. 1 gave Yamaha Passion motorcycle bearing Registration No. KA-42-EQ-2880 to accused Nos. 2 and 3 to commit the offence. As per the say of accused No.1, accused Nos. 2 and 3 changed the number plate of the above said vehicle as KA-01-HR-9710 through C.W. 30 and accused No. 2



contacted remaining accused persons in mobile phone through whatsapp and accused No.1 gave information to accused Nos.2 and 3, accused No.2 was riding the bike and accused No.3 was a pillion rider, on 05.09.2021 at about 6.45 a.m., they followed the car bearing No. KA-4-M-1966 driven by the deceased from his house i.e., he was proceeding towards deserted area, from Lakshmipura Road to Narasimhamurthy decoration shed, near road cross, lonely area, they in the guise of asking address stopped the deceased and restrained him. Appellant - accused No. 3 stabbed him with knife on the chest, neck and back and caused bleeding injuries. The deceased was shifted to hospital but he died on 06.09.2021 at 6.15 p.m. The mother of the deceased – C.W. 1 had filed complaint against the accused No.4 and five others. Charge sheet is not filed against these five others. The charge sheet has been filed against accused Nos.1 to 5 for the offences under Section 143, 147, 148, 341, 302, 109, 120-B, 201, 150 read with 149 of IPC and Section 3(2)(v) of SC ST (POA) Act.



4. Appellant - accused No. 3 came to be arrested on 20.09.2021 and he is in judicial custody. Appellant - accused No. 3 filed Crl.Misc. No.1374/2023 seeking bail and the same came to be rejected by the impugned order dated 05.08.2023 which is challenged in this appeal.

5. Learned counsel for appellant - accused No. 3 would contend that accused Nos. 1 and 4 have been granted bail and therefore, this appellant - accused No. 3 is also entitled for grant of bail on the ground of parity. Earlier case came to be registered against 5 other persons and subsequently this appellant - accused No. 3 and others have been implicated in the case. Statement of the alleged eye witnesses namely, C.W.14 and C.W.16 came to be recorded subsequently and their presence on the spot is doubtful. Earlier case came to be registered against C.W.34 to C.W.39 stating that there was a land dispute between father of the deceased and those persons. As charge sheet is filed appellant - accused No. 3 is not required for custodial interrogation. With this he prayed to



allow the appeal and grant bail to appellant - accused No. 3.

6. Per contra, learned HCGP would contend that appellant – accused No. 3 conspired with other accused, took supari and killed the deceased by stabbing him on his chest. Said incident has been witnessed by C.W.13, C.W.14 and C.W.16. Among them C.W.16 has identified this appellant – accused No. 3 as the person who stabbed the deceased with a knife. There is recovery of knife and jerkin at the instance of this appellant – accused No. 3 under mahazar. Said knife and jerkin are found to be stained with human blood. The Doctor who conducted postmortem examination has opined that death is due to penetrative injury to the chest. The Investigating Officer has collected the CCTV footage where the movement of this appellant – accused No. 3 and another is recorded. Charge sheet material show prima facie case against this appellant – accused No. 3. Considering all these aspects



the trial Court has rightly rejected his bail petition. With this he prayed to dismiss the appeal.

7. Having heard learned counsel for appellant – accused No. 3 and learned HCGP for respondent No. 1 – State this Court has gone through the impugned order and charge sheet records.

8. Case of the prosecution is that the deceased had illicit relationship with accused No.4 since 2015. Accused No.4 started illicit relationship with accused No.1 since four months prior to 05.09.2021. Hence, the deceased made galata with accused Nos.1 and 4 and assaulted accused No.4. Therefore, the accused Nos.1 to 5 conspired to kill the deceased and accused Nos.1 and 4 engaged accused Nos.2 and 3 to kill the deceased and agreed to give supari of Rs.1,00,000/- and gave advance of Rs.10,000/-. In furtherance of the said conspiracy, accused Nos. 2 and 3 went on motorcycle given by accused No.1 by changing the number plate of the vehicle with the help of C.W. 30. Appellant - accused No.3 in the



guise of asking address stopped the deceased and assaulted with knife on his chest, neck and back of the deceased and caused bleeding injuries. The deceased succumbed to injuries on 06.09.2021.

9. C.W.13 is the mother of the deceased who in her statement has stated that two persons came near her son when he was in the car and one person stabbed her son with a weapon. C.W.14 and C.W.16 are eye witnesses to the incident. C.W.14 has also stated in his statement about two persons coming near the car of the deceased and one person assaulting the deceased with a knife. C.W.16 in his statement has stated that he has seen two persons coming near the deceased and one person assaulting the deceased with knife on his chest and other parts. He has identified the said person who assaulted the deceased with knife as appellant – accused No. 3 when he was shown in the Police Station. Merely because there is delay in recording the statement of C.W.14 and C.W.16 is not a ground for grant of bail. There is recovery of knife and jerkin at the instance of the appellant – accused No. 3



which on examination are found to be stained with human blood. CCTV footage collected by the Investigating Officer will reveal the movement of appellant – accused No. 3 and another on motorcycle in the area of the incident. Charge sheet material show prima facie case against appellant – accused No. 3 for offences alleged against him. Considering all these aspects the trial Court has rightly rejected the bail petition. There are no grounds made out for setting aside the said order and grant bail to appellant – accused No. 3. Hence, appeal is dismissed.

**Sd/-
JUDGE**

LRS
List No.: 1 SI No.: 9