

KABC010206382023



**IN THE COURT OF THE LXIII ADDL.CITY CIVIL &  
SESSIONS JUDGE (CCH-64) AT BENGALURU**

Dated this the **23<sup>rd</sup>** day of August 2023

**: PRESENT :**

**Sri.A.V.Patil, B.Com., LL.B.,**  
LXIII ADDL.CITY CIVIL & SESSIONS  
JUDGE, BENGALURU CITY.

**CRIMINAL MISCELLANEOUS NO.7422/2023**

**PETITIONER :** Srinivas @ Srinivas @ Seena @  
Chinnu  
S/o Ganesha,  
Aged about 20 years,  
Residing at No.2, Cart Stand  
Road, Jalimahella, Bengaluru.  
*(Accused No.1)*

*(By Smt.Manjula.C, Advocate)*

**- Vs -**

**RESPONDENT :** State by V.V.Puram Police  
Station, Bengaluru.

*(By Public Prosecutor)*

**ORDER**

The petitioner has filed this petition u/s 439 of Cr.P.C., for grant of bail in Cr.No.41/2023 (CC No.14715/2023 and SC No.1118/2023) registered for the offences punishable u/s 302, 201 r/w 34 of IPC.

2. It is stated in the bail application that he is innocent of the offences alleged and the respondent/Police have falsely implicated him. The complainant has filed complaint against unknown persons and also the complainant received call from unknown persons which throws great doubt of credibility of the complaint and the complaint is hearsay, There is no ill-will or motive to the petitioner to commit the alleged offences. The petitioner is in judicial custody from the date of his arrest. He has no criminal antecedents. He is the permanent resident of the address shown in the cause title. He is the sole bread earner of his family. He is ready to assist in proper investigation and ready to abide by the conditions imposed by this court. Hence, prayed to grant bail.

3. The learned P.P. has opposed the bail application by filing the objections statement. According to him IO

after due investigation found that petitioner and others have committed the offences and hence, filed the charge sheet against him. Filing of charge sheet itself shows that petitioner has committed the offences alleged in the charge-sheet. Among other grounds prayed to dismiss the bail application filed by the petitioners.

4. Heard the arguments from learned Counsel for petitioner and learned Public Prosecutor. Perused the materials placed on record.

5. The points that arise for my consideration are:

1. *Whether the petitioner is entitled for bail as prayed in the application filed under Sec.439 of Cr.P.C.?*

2. *What order?*

6. My answer to the above points are as follows:

Point No.1: *in the negative*

Point No.2: *As per final order for the following;*

### **REASONS**

7. **Point No.1:-** CW1 lodged a complaint alleging that deceased Ramesh Bhandari was working in R.R.Engineering, Thavarekere as a Marketing Assistant. On 27.03.2023, at about 02.00 p.m., he visited the house of CW1 and went to the city. At about 10.20

p.m., CW1 called through phone to CW10 and informed that between 08.45 to 09.15 p.m., at N.T.Pete, 4<sup>th</sup> Main, near Shivaji Oil Shop, some unknown persons assaulted Ramesh Bhandari and for treatment he was shifted to Hospital, later he died in the Hospital. In this connection, the complaint was filed against the unknown persons. On the basis of the complaint, the Investigating Officer registered the FIR, investigated the matter and found that CW5 and deceased Ramesh Bhandari after completing their work at K.R.Market were about to board the bus at Kalasipalya Bus Stand, at that time, accused No.1 and the person in conflict with law came there, CW2 paid them Rs.500/- and asked to arrange for ganja. The said accused No.1 and the person in conflict with law took the Ramesh Bhandari to N.T.Pete, 4<sup>th</sup> Main, 35/1, Shivaji Complex and there accused No.1 and the person in conflict with law not arranged for ganja and making time pass. The deceased questioned the same, at that time, the galata took-place between accused No.1 and deceased. For that accused No.1 asked the person in conflict with law to do something. In response to it, the person in conflict with law in order to kill Ramesh Bhandari pick the

broken the bear bottle and stabbed on his right neck and killed him. Both accused No.1 and the person in conflict with law in order to destroy the evidence, the dress worn by the person in conflict with law was changed and those clothe were thrown at the ground floor of the said building. Accordingly, IO filed the charge-sheet against the petitioner.

8. The learned Counsel for the petitioner argued that the petitioner has not committed any offences as alleged by the prosecution. He is innocent and is looking after the family members. No prima-facie material available against the petitioner. Already investigation is completed, the presence of petitioner is not at all required, the petitioner being the permanent resident of the address given in the cause title, there is no chance of ascendance, therefore, prayed to enlarge the petitioner on bail.

9. Per contra, the learned Public Prosecutor vehemently argued that the petitioner along with the person in conflict with law has committed the murder of Ramesh Bahnadari. The materials collected during the course of investigation, prima-facie discloses the involvement of petitioner in committing murder of

deceased. The offences alleged against the petitioner are punishable with death or life imprisonment. The cause of death is due to the multiple injuries sustained. According to him, the petitioner has committed heinous and therefore, he is not entitled for bail. Hence, prayed to reject the bail application.

10. Before considering the merits of the case it is necessary to note that the views taken by Hon'ble Apex Court of India in *Cri.Appeal No.1279/2021 (Bhoopendra Singh Vs. State of Rajasthan & Another)* noted well settled principles to be considered while considering the bail application. For the sake of convenience the relevant portion is extracted and reproduced here under:

- i) *Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence.*
- ii) *nature and gravity of the accusation.*
- iii) *severity of the punishment in the event of conviction.*
- iv) *danger of the accused absconding or fleeing, if released on bail.*
- v) *character, behaviour, means, position & standing of the accused;*
- vi) *likelihood of the offence being repeated;*
- vii) *danger, of course, of justice being*

*thwarted by grant of bail.*

11. In another judgment the Hon'ble Apex Court of India *Cri. Appeal No.1202/2021 (Prashant Singh Rajput Vs. The State of Madhya Pradesh and Another)* has observed that while considering the application for bail the Court has to consider the nature of offence, the role of the person, the likelihood of his influencing the course of investigation or tamper with the evidence, likelihood of fleeing from justice.

12. After completion of investigation, the complainant/ Police have filed the charge-sheet against the accused. The main contention of the learned Counsel for the petitioner is that, already investigation is completed, the presence of petitioner is not at all required, the petitioner being the permanent resident of the address given in the cause title, there is no chance of ascendance and the petitioner has no criminal antecedents.

13. In the present case CW5 is shown as eye witnesses. In his statement he has clearly stated before IO with regard to the incident. The IO filed the charge sheet after completion of investigation and filing of charge sheet and material collected by the IO are prima-

facie sufficient to show that petitioner has is responsible for committing offence u/s 302 R/w Sec.34 of IPC along with the person conflict with law, which is punishable with death or imprisonment for life.

14. In the opinion of this Court when there are serious allegations supported by sufficient material to raise a prima-facie case against a citizen for an offence punishable with imprisonment for life, bail cannot be granted to such an accused merely on the concept of liberty. It is well settled principle of law that at the stage of deciding a bail petition, this Court cannot hold a mini trial to find out merits or demerits of the case. If any such mini trial is held, it would prejudice the rights of the parties one way or other. Mere filing charge sheet by IO is not ground grant bail and the petitioner is in custody from the crime stage itself is not a ground to grant bail. If petitioner is released on bail he may abscond and obstruct the trial. Having regard to the facts and circumstances of the case, nature and gravity of the accusation, severity of punishment, in the event of conviction, it is not safe to grant bail to the petitioners. If the petitioners are enlarged on bail, they may abscond and obstruct the trial and may commit

similar type of offences. Hence, it is not fit case to exercise the discretion in favor of petitioners. For the fore going reasons, I answer this point in the negative.

15. **Point No.2:-** In view of my findings on point No.1, I proceed to pass the following;

**ORDER**

The regular bail petition filed by petitioner u/s 439 of Cr.P.C. is hereby rejected.

*(Typed by the Judgment Writer directly on computer on my dictation, taken print out and after correction pronounced by me in open Court on this the **23<sup>rd</sup> day of August 2023**)*

**(A.V.PATIL)**  
**LXIII ADDL.CITY CIVIL & SESSIONS**  
**JUDGE (CCH-64), BENGALURU CITY.**