IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 29TH DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MS. JUSTICE J.M.KHAZI

CRIMINAL PETITION NO. 101837 OF 2023

BETWEEN:

IRANNA S/O. ISTALINGAPPA BANAKAR,
AGE: 47 YEARS, OCC: BUSINESS,
R/O: SECTOR NO.5, PLOT NO.22-D
NAVANAGAR, BAGALKOT.

...PETITIONER
(BY SRI. CHANDRASHEKHAR S. NAGASHETTI, ADVOCATE)

AND:

STATE OF KARNATAKA,
BY SUB INSPECTOR OF POLICE,
GADAG RAILWAY POLICE STATION,
REPRESENTED BY ADDITIONAL S.P.P,
HIGH COURT OF KARNATAKA,
CIRCUIT BENCH AT DHARWAD.

...RESPONDENT
(BY SMT. GIRIJA S. HIREMATH, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 OF CR.P.C. SEEKING ALLOW THE PETITION TO GRANT ANTICIPATORY BAIL TO PETITIONER/ACCUSED NO.1 IN THE EVENT OF HIS ARREST IN CONNECTION WITH THE CASE REGISTERED IN CRIME NO. 018/2023 DATED 08.07.2023 BY THE GADAG RAILWAY POLICE ALLEGED OFFENCES P/U/SEC. 306 R/W 34 OF IPC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

CHANDRASHEKAR LAXMAN KATTIMANI

Digitally signed by CHANDRASHEKAR LAXMAN KATTIMANI
Date: 2023.08.31 11:39:31 +0530

ORDER

Petitioner who is arraigned as accused No.1 has filed this petition under Section 438 of Criminal Procedure Code (for short, 'Cr.P.C') to grant him anticipatory bail in Crime No.18/2023 for the offences punishable under section 306 read with Section 34 of Indian Penal Code (for short, 'IPC') contending that he is innocent and law abiding citizen. He has not committed offences as alleged. The complaint does not allege any overacts against the petitioner. Without appreciating the facts and circumstances of the case, the Sessions Court has rejected application for anticipatory bail. Petitioner is permanent resident of the address given in the cause title. He is ready and willing to abide by any conditions that may be imposed and prays to allow the petition.

2. Learned High Court Government Pleader submits oral objections stating that deceased-Shridhar Gudi had done Master in Computer Application. Initially, he was teaching computers in Bapuji School, Bilagi. After 4

to 5 years, he left said job and started supplying Readymade uniforms to the schools. He also started BC and Suraksha Credit Co-operative Society. He suffered loss due to borrowers not repaying the loan taken from the said society. After suffering loss, he was moving around without any work. Since two years, he was staying in his wife's house at Belagavi and running Goshala.

2.1. However, petitioner (accused No.1) and accused No.2 were harassing him for repaying the loan. Infact after selling the immovable properties, 70% of the loan was repaid. For the remaining amount due, he was harassed by lenders. When things stood thus, on 08.07.2023 at 12.30 mid night, Railway Police informed the complainant about a dead body found on the track and complainant identified it as belonging to his brother-Shridhar Gudi. A death note was found in his pocket implicating petitioner and accused No.2.

2.2. In respect of the said incident, the brother of the deceased has lodged complaint. On the basis of the

complaint, investigation is started. Dead body is subjected to P.M examination. Death note of the deceased is sent to forensic examination and report is awaited. From the date of incident, petitioner and accused No.2 are absconded and their presence is required for investigation and prays to dismiss the petition.

3. Heard the arguments and perused the records.

4. Petitioner who is arraigned as accused No.1 is seeking anticipatory bail contending that based on his name reflected in the alleged death note left by the deceased-Shridhar Gudi. He is implicated as accused. Learned counsel for the petitioner submits that the petitioner is doing business and is not having any bad antecedents and he is ready and willing to abide by any conditions that may be imposed.

5. In support of his arguments, he has relied upon the order dated 23.10.2019 in Criminal Petition No.7001/2019, wherein in the similar circumstances,

anticipatory bail has been granted by Co-ordinate Bench of this Court.

6. From perusal of the complaint averments as well as the death note left by the deceased-Shridhar Gudi, it is evident that deceased had done Master in Computer Application. Initially, he was working as computer instructor in a school. After 4 to 5 years, he started business of supplying uniform to the schools. After suffering loss, he started Suraksha Credit Co-Operative Society and also a chit fund business. It appears that after suffering loss on account of the borrowers not repaying loan, he discontinued the said business. It is said, since two years, he was running a Goshala. It is claimed that though with the help of his brother i.e. the complainant by selling certain immovable properties of the family, 70% of the loan was repaid, for the remaining amount, petitioner and accused No.2 were harassing him with the help of police. Unable to bear harassment, he was chosen to end his life by jumping before a running train. Though the

complaint is filed on 08.07.2023, so far the concerned police have not collected any material to implicate the petitioner. In the death note, the fact of borrowing a sum of Rs.50,000/- from the accused No.2 is stated, so far as the petitioner is concerned no amount borrowed from him is specified.

7. Taking into consideration of the peculiar facts and circumstances of the case and also the nature of allegations, this Court is of the considered opinion that the custodial interrogation of the petitioner is not required and therefore the petitioner is entitled for anticipatory bail. Ofcourse interest of the prosecution is required to be safeguarded by imposing stringent conditions and accordingly, following:

ORDER

Petition is allowed.

Petitioner/accused No.1 shall be released on bail, in the event of his arrest in Crime No.18/2023 for the offences punishable under

section 306 read with Section 34 of IPC, subject to following:

CONDITIONS

a) The petitioner/accused No.1 shall execute a personal bond in a sum of Rs.1,00,000/- with two sureties for the like-sum.

b) The petitioner/accused No.1 shall appear before the investigating officer within a period of 15 days and execute the bail bond and offer surety.

c) Petitioner/accused No.1 shall make himself available for the purpose of investigation as and when required and he shall co-operate with the investigation.

d) Petitioner/accused No.1 shall furnish his residential address proof and shall inform the investigating officer/Court if there is any change in the address.

e) The petitioner/accused No.1 shall mark his attendance at the Jurisdictional Police Station once in 15 days till filing of the charge sheet.

f) Petitioner/accused No.1 shall not tamper with the prosecution witnesses either directly or indirectly.

g) Petitioner/accused No.1 shall not indulge in any criminal activities.

h) Petitioner/accused No.1 shall be regular in attending the Court proceedings.

Sd/-
JUDGE

AC
List No.: 1 Sl No.: 15