

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER 2017

BEFORE

THE HON'BLE MR. JUSTICE BUDIHAL R.B.

CRIMINAL PETITION No.7429/2017

BETWEEN:

Sri Shekhar Naika
S/o Devya Naika
Aged about 50 years
R/at Holebennavalli Village
Dodda Thanda
Bedadka Village
Shivamogga Taluk and District-577 427. .. PETITIONER

(By Sri M Vinod Kumar, Adv.)

AND:

State of Karnataka
Represented by the
SHO Shimoga Rural Police Station
Shimogga
Represented by the SPP
State Public Prosecutor
High Court Building
Bangalore-560 001. .. RESPONDENT

(By Sri Chetan Desai, HCGP)

This criminal petition is filed under Section under Section 438 of the Cr.P.C. praying to enlarge the petitioner on bail in the event of his arrest in Cr.No.175/2017 (C.C.No.716/2017) of Shivamogga Rural P.S., Shivamogga District for the offences punishable

under Sections 341, 143, 109, 120B, 302 read with Section 149 of IPC.

This petition coming on for *Orders* this day, the Court made the following :

ORDER

This petition is filed by the petitioner-accused under Section 438 of Cr.P.C. seeking a direction to the respondent police that in the event of his arrest, he be released on bail for the offences punishable under Sections 341, 143, 109, 120B, 302 read with Section 149 of IPC registered in respondent Police Station Crime No.175/2017.

2. I have heard the learned Counsel appearing for the petitioner-accused and the learned High Court Government Pleader appearing for the respondent-State.

3. Brief facts of the case are that wife of the deceased is the complainant. The allegation is that she had contested for gram panchayat election in the previous year. In connection with that, there was a dispute

between accused No.1 and the complainant. Since the accused Nos.1 to 4 had not supported them, on the background of that, the deceased assaulted brutally on the accused No.1 with iron rod, on that enmity, on 05.05.2017 at about 1:30 p.m., when the deceased was moving on his motorcycle, near his fields, the accused No.1, 2, 4 and 6 followed him and hit the motorcycle and thereby caused his death.

4. Looking to the prosecution material, it goes to show that the petitioner was not present at the spot and the material collected shows that he instructed the other accused persons to eliminate the deceased. Therefore, whether there was such instigation or not, is a matter of trial. In this petition, the petitioner has denied the allegation of conspiracy between himself and accused persons. This Court had an occasion to consider the entire merits of the case of accused No.3 who approached this Court seeking release on bail. After considering the merits, this Court held that accused No.3 was not found guilty and he was granted with bail. The petitioner has

contended that he is ready to abide by any conditions that may be imposed by this Court. In view of this material placed on record, I am of the opinion that this is a fit case to exercise discretion in favour of the petitioner.

5. Hence, the petition is allowed. The respondent-police are directed to enlarge the petitioner on bail in the event of his arrest for the alleged offences punishable under Sections 341, 143, 109, 120B, 302 read with Section 149 of IPC registered in respondent Police Station Crime No.175/2017, subject to the following conditions:

- i. Petitioner shall execute a personal bond for a sum of Rs.1,00,000/- and have to furnish one solvent surety for the likesum to the satisfaction of the arresting authority.
- ii. Petitioner shall not tamper with any of the prosecution witnesses, directly or indirectly.
- iii. Petitioner shall make himself available before the Investigating Officer for interrogation as and when called for

and to cooperate with the further investigation.

- iv. Petitioner shall appear before the concerned Court within 30 days from the date of this order and to execute the personal bond and the surety bond.

**Sd/-
JUDGE**

Cs/-