

IN THE HIGH COURT OF KARNATAKA
AT BENGALURU

DATED THIS THE 22ND DAY OF JUNE 2022

BEFORE

THE HON'BLE MR.JUSTICE K. NATARAJAN

CRIMINAL PETITION NO.4834 OF 2022

BETWEEN:

1. SADIK KHAN @ SADIK

2. ADIL KHAN @ ADIL

.....PETITIONERS

(BY SRI.RAM SINGH K. ADVOCATE)

AND:

THE STATE OF KARNATAKA,
ELECTRONIC CITY POLICE STATION
BENGALURU-560100
REPD. BY
GOVERNMENT PLEADER
HIGH COURT KARNATAKA
BENGALURU-560001

..... RESPONDENT

(BY SRI.R.D.RENUKARADHYA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING TO RELEASE THESE PETITIONERS ON BAIL IN S.C.NO.160/2021(CRIME NO.20/2021) OF RESPONDENT-ELECTRONIC CITY POLICE STATION, BENGALURU, REGISTERED FOR ALLEGED OFFENCE PUNISHABLE UNDER SECTIONS 341, 323, 143, 144, 148, 302 R/W SEC. 149 OF IPC, PENDING ON THE FILE OF IX ADDL. DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL DISTRICT, BENGALURU.

THIS PETITION COMING ON FOR **ORDERS**, THROUGH VIDEO CONFERENCING AT DHARWAD BENCH, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This criminal petition is filed by the petitioners/accused Nos.1 and 3 under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.', for short) for granting bail in respect of Crime No.20/2021 of Electronic City Police Station, Bengaluru for the offence punishable under Sections 341, 323, 143, 144, 148, 302 r/w section 149 of Indian Penal Code, 1860 (hereinafter referred to as the 'IPC', for short) pending in SC.No.160/2021 on the file of IX Addl. District and Sessions Judge, Bengaluru Rural District, Bengaluru.

2. Heard the arguments of learned counsel for petitioner and learned High Court Government Pleader for respondent.

3. The case of the prosecution is that one Akram Pasha, brother of deceased Syed Afzal has filed complaint to the Police on 01.02.2021 alleging that when complainant was at Mahalakshimpura, he received information from his brother Syed Irfan about the assault on his another brother Syed

Afzal by unknown persons. Complainant rushed to the spot and on enquiry with his brother by name Irfan who is eye witness to the incident. He told that accused persons committed murder of the deceased. After filing complaint, during investigation police arrested the petitioners/accused on 04.01.2021 and remanded to judicial custody. Petitioners approached IX Addl. District and Sessions Judge, Bengaluru Rural District, Bengaluru and the same came to be rejected. Hence, petitioners/accused approached this court seeking bail in CrI.P.No.7440/2021 dated 12.11.2021 and the same came to be rejected. Now, petitioners are before this Court on the changed circumstances.

4. Learned counsel for the petitioner contended that all the co-accused persons were granted with bail by co-ordinate bench of this Court except these petitioners. Present petitioners are in custody for almost one and half year. The trial not yet began. Charge sheet material reveals that accused no.4 who has been granted bail by co-ordinate bench of this court also assaulted on the head of the deceased with iron rod. Therefore, accused no.3 also entitled for grant of

bail on the ground of parity. The father of the accused no.1 is also the father of accused no.3 is suffering from health ailment. Now there are no one there to look after their father. Their presence is very much essential for their father. Hence, he prayed to allow the petition.

5. Per contra, learned HCGP seriously objected the successive bail petition and submits that there are no changed circumstances and additional grounds for grant of bail to accused persons. This court has already taken these grounds in detail in earlier occasion and dismissed the petitioner. Hence, prays to reject the bail petition.

6. Having heard the arguments, perused the records which reveals that especially the order of this Court while rejecting the bail petition of Afzal at para-6 of the order where it was held that there are eye witnesses to the incident. Statement of eye witnesses and statement recorded under 161 and 164 Cr.P.C., they all stated that accused persons committed murder. The alleged overt act against petitioner/accused no.1 is he has assaulted the deceased on his head with knife. Thereafter, he has dumped stone on the

head of the deceased. Accused no.3 who is said to be brother of accused no.1 who also took a salike and caused injury on the head of deceased. Of-course, accused no.4 also said to be assaulted subsequently with iron road. But, deceased was died due to skull fracture and intracranial hemorrhage as a result of blunt and sharp force injury sustained to head. This court also considered the evidence collected during test identification parade where injured eye witnesses identified and told about the overt act of these accused. Considering all these grounds earlier this court has rejected the bail petition. Now, learned counsel submits that father of the accused persons is in dangerous condition, he has produced some medical documents where some New Janapriya private hospital has given report stating that one Ayub Kahan was diagnosed with Bullous Lung disease and underwent multiple intercostals drainage procedure. Now, he is having unstable angina with mild LV dysfunction. He needs Coronary Angiogram and PTCA with IABP as early as possible to save his life. The approximate cost of the procedure is 5 to 6 lakhs. Except this document, no other document is produced by the

petitioners to show that he has taken treatment in any other hospital and he has not gone to the Jayadeva Cardiology Specialty Government Hospital. Merely stating that amount of Rs.5 to 6 lakhs required that itself is not a ground for grant of bail to these petitioners. To save the life of their father as they have committed murder and taken life of a innocent person. Life is important to everybody not only to the accused. But also to the victim family. Therefore, when petitioners have committed brutal murder of one person they cannot seek bail to save life of another person i.e. their father. That apart, there are no additional grounds made out for release them on bail. Therefore, I pass the following:

ORDER

Bail petition filed by the accused nos.1 and 3 is hereby dismissed.

Trial court is directed to speed up the trial and dispose the case as early as possible.

**Sd/-
JUDGE**

HMB