

Karnataka High Court Sathyaprakash vs State Of Karnataka By on 17 March, 2015 Author: A.V.Chandrashekara 1

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH 2015

BEFORE

THE HON'BLE MR. JUSTICE A.V.CHANDRASHEKARA

Cr1.P. NO. 1187/2015

BETWEEN: SATHYAPRAKASH AGED ABOUT 23 YEARS S/O JAIPRAKASH SHAH RESIDENT OF DEVAHAR GRAMA VIA BABUBARHI POST ANDHRATHADI THANA MADHUBANI DISTRICT BIHAR STATE-847201. ... PETITIONER

(By Sri: C.V. NAGESH SR. COUNSEL FOR SRI: RAGHAVENDRA K, ADV.)

AND

STATE OF KARNATAKA BY STATION HOUSE OFFICER COTTONPET POLICE STATION BANGALORE. REP BY SPP HIGH COURT BANGALORE-560001. ... RESPONDENT

(By Sri: B.J. ESHWARAPPA, HCGP)

CRL.P FILED U/S.439 CR.P.C BY THE ADVOCATE FOR

THE PETITIONER PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO ENLARGE THE PETITIONER ON 2

BAIL IN CRIME NO.51/2013 OF COTTONPET POLICE STATION, BANGALORE CITY., FOR THE OFFENCES P/U/S 302 OF IPC AND ETC.

THIS PETITION HAVING BEEN HEARD AND

RESERVED FOR PRONOUNCEMENT OF ORDERS, THIS DAY A.V.CHANDRASHEKARA, J., MADE THE FOLLOWING:

ORDER

Petitioner is in judicial custody since 2 years 3 months and hence this regular bail application is filed under Section 439, Cr.P.C. Petitioner is accused in Crime No.51/13 on the file of Cottonpet police station for the offences punishable

under Sections 302, 201 and 354, I.P.C. 2. Heard the learned counsel for the petitioner and learned HCGP. Perused records. 3. The main allegation against this petitioner is that he had assured one lady by name Roopali Mishra that he would get her an appointment in a bank and in this regard, he had asked her to pay Rs.4,20,000/- to him. Since he did not have a bank account of his own, he had asked her to deposit Rs.20,000/- to the S.B. A/c of CW-29, Ravikumar and had asked her to deposit Rs.2,00,000/- to the account of CW-32 maintained in State Bank of India. He had asked Roopali to come to Bengaluru on 19.7.2011. He had arranged for two rooms, room nos.303 and 304 in Lucky Inn Lodge in the name of CW-29. Accused had stayed in the same lodge on 20.7.2011. He had assured Roopali Mishra of getting a suitable job in ICICI Bank in Bengaluru. But he could not get her any job. In the month of June 2012, she got a job in Axis Bank, Basavanagudi Branch, Bengaluru, and was living in a paying-guest house at Kumaraswamy Layout. 4. The said Roopali Mishra was insisting the accused to return Rs.2,20,000/- received by him from her, lest, she would give a complaint to the police or commit suicide and would leave a death note. Accused had called her to come to Majestic area in Bengaluru. On 3.2.2013, he had arranged for a room in the name of CW1-Santoshkumar and had furnished his address falsely as a resident of Kanpur city, to the manager of Regal Lodge in Bengaluru.. He took Roopali to his room at 1.00 p.m. and was talking to her. Since she insisted him to return the money and since she slapped him on his cheek on 3.2.2013, he got enraged and attempted to rape her and ultimately murdered her by stabbing on her private parts with a sharp edged knife and later on dragged the dead body to the bathroom. The accused took the vanity bag of Roopali Mishra along with the knife used by him to murder her and went away. 5. Learned counsel for the petitioner has vehemently argued that the police have recorded two confessional statements which are contradictory to each other, and this cannot be the basis for his detention. He has further argued that the case is based on circumstantial evidence and the circumstances are too weak to rope him in a serious murder case. Hence learned senior counsel, Mr.C.V.Nagesh has requested the court to release the petitioner on bail. 6. Per contra, learned HCGP has opposed the bail application on the ground that sufficient incriminating materials have been recovered at the instance of the accused and it is too premature to disbelieve them. It is further argued that there are strong circumstances to link the murder of Roopali Mishra with the accused and taking into consideration the gravity of the offence and the circumstances under which the alleged incident is stated to have taken place, this is not a fit case to exercise the discretion under Section 439, Cr.P.C. 7. After going through the records, it is evident that the statement of the manager of U.G.Regal Lodge, Bengaluru, has been recorded. It is he who lodged FIR on 6.2.2013 at 4.15 p.m. Since foul smell was emanating from the said room, he lodged a complaint and on that basis a case came to be registered. The accused was taken into custody and was subjected to custodial interrogation. The first statement was recorded on 9.2.2013 and the second confessional statement was recorded on 10.2.2013. Since the accused did not try to mislead the police, his second confessional statement was recorded on 10.2.2013 and incriminating

materials have been recovered at his instance. This accused was seen last with the deceased by the manager of that Lodge. 8. On 12.2.2013 accused took the police to his house in Chidambaram and there a rexin bag which belonged to Roopali Mishra was seized along with an I.D.Card of Santoshkumar which was used by him. Small photos of Roopali Mishra were also found in the said vanity bag. The clothes of the accused which had been stained with blood have also been recovered at his instance. The knife which allegedly had been used by him to murder her has also been recovered at his instance. 9. The medical report discloses that death was due to homicide. Post mortem report discloses that she had been stabbed on different parts of the body, more particularly on her private parts. 10. Though the case is based on circumstantial evidence, it is too premature to disbelieve such circumstances. Taking into consideration the gravity of the offence and the punishment contemplated therefor and the totality of the circumstances, this is not a fit case in which discretion could be exercised under Section 439, Cr.P.C. at this stage. Taking into consideration the circumstances in which the incident has taken place and the manner in which murder has taken place, the accused is not entitled to be released on bail at this stage. Hence the petition is liable to be dismissed. 11. Accordingly the petition is dismissed. 12.. In the result, I pass the following order: ORDER The petition is dismissed. Since the accused has been in judicial custody for more than two years, learned sessions judge to expedite the trial by framing charges at the earliest, if charges have not yet been framed. Sd/- JUDGE vgh*