

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF SEPTEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION NO.8225 OF 2022

BETWEEN

- 1 . RAJESH @ RAJI @ SWAMY
S/O. DODDAKEMPAYYA,
AGED ABOUT 27 YEARS,
OCCUPATION AGRICULTURIST,
APKARANAHALI VILLAGE,
DODDABELAVANGALA HOBLI,
DODDABALLAPURA TALUK,
BENGALURU RURAL DISTRICT-561 204.
- 2 . SRI. AMRUTHA @ AMMU
S/O. CHANDRAPPA,
AGED ABOUT 25 YEARS,
OCCUPATION AGRICULTURIST,
DODDABELAVANGALA HOBLI,
DODDABALLAPURA TALUK,
BENGALURU RURAL DISTRICT-561 204.
- 3 . GAJENDRA @ GANESHA
S/O. THIMMEGOWDA,
AGED ABOUT 30 YEARS,
WORKS AT OBALAPURAM PETROL PUMP,
HUJENAHALLI VILLAGE,
KUDUR HOBLI,
MAGADI TALUK,
RAMANAGARA DISTRICT-561 101.

... PETITIONERS

(BY SRI HANUMANTHARAYA C H, ADVOCATE)

AND

STATE OF KARNATAKA
BY THYAMAGONDLU POLICE STATION,
BENGALURU RURAL DISTRICT,

REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA
HIGH COURT BUILDING
BENGALURU

... RESPONDENT

(BY SRI KRISHNA KUMAR K.K., HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.67/2021 OF THYAMAGONDLU P.S., BENGALURU DISTRICT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 120-B,143,147,148, 204,302,307,504 READ WITH SECTIONS 149 AND 35 OF IPC AND SECTION 65 OF INFORMATION TECHNOLOGY ACT, 2000, PENDING ON THE FILE OF VII ADDITIONAL DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL DISTRICT, IN S.C.NO.119/2022.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 23.09.2022 THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioners-accused Nos.2, 3 and 5 under Section 439 of Cr.P.C. for granting regular bail in Crime No.67/2021 registered by Thyamagondlu Police Station, Nelamangala Circle, Bengaluru for the offences punishable under Sections 120(B), 143, 147, 148, 307, 302, 504, 204, 35 read with

Section 149 of IPC and Section 65 of the Information Technology Act.

2. Heard the arguments of learned counsel for the petitioners and learned High Court Government Pleader for the respondent - State.

3. The case of the prosecution is that on the complaint of one Sathish, the Police registered a case against unknown persons on 04.10.2021 for the above said offences. It is alleged by him that his friend-deceased-Jai Sriram called him to Tumakuru to meet Girish, accordingly, at about 11.00 a.m., he took his mother's motorcycle bearing registration No.KA-41-ES-8894 TVS NTORQ, reached near the apartment of Jai Sriram and both of them left by 1.00 p.m. proceeding to Tumakuru. The complainant was riding the vehicle and Jai Sriram was a pillion rider. When they proceeding on the NH-48 road at about 2.00 p.m., a luggage vehicle came, dashed to his motorcycle and then both of them fell down and while getting up, the luggage vehicle went away. Immediately, 4

to 5 persons came in the black car along with long and machete, assaulted the deceased Jai Sriram and committed murder and after seeing the other vehicles coming near the spot, the assailants went away in their car. Then the deceased was shifted to the hospital where he was declared dead. After registering the case, the Police arrested these petitioners and remanded to judicial custody. Their bail petition came to be rejected by the Sessions judge. Hence, they are before this Court.

4. Having heard the arguments of the parties and on perusal of the records, which reveals that on the complaint of Sathish, the police registered a case against unknown persons. Subsequently, the investigation revealed that there was enmity between accused No.1 and the deceased, on that background, when the deceased and the complainant were proceeding towards Tumakuru on motorcycle which was raided by the complainant, at that time, a goods vehicle came and dashed their motorcycle, due to which they both fell down and when they got up and

saw, the said goods vehicle went away. By that time, 4 to 5 persons came in the black car along with long and machete, they brutally assaulted the deceased-Jai Sriram and committed murder and after seeing the other vehicles coming near the spot, the assailants went away in their car. This Court, of course has granted bail to accused No.8 and rejected the bail petition of accused No.6 as accused No.8 was sat in the goods vehicle and accused No.6 drove the vehicle and dashed to the motorcycle of the deceased and the complainant and thereafter went away. As there is no any overt act against accused No.8, but accused No.6 who drove the vehicle, dashed the motorcycle and due to which the deceased fell down which enable the other accused who came in the car to commit murder. There are abundant material placed on record to show that these accused persons committed murder. The CCTV footage recorded near the house of one of the witness i.e., CW.15-Kailash, where it was viewed by the police which reveals these accused persons were committing the murder. Accused Nos.2, 3, 4 and 5 were actually committed murder

by using the weapons. The statement of CW.7 under Section 164 of Cr.P.C. who is the friend of accused No.1 was also recorded. Accused No.3 informed accused Nos.1 and 7 regarding movements of the deceased. CW.2 is the eye witness to the incident. The Test Identification Parade was held and they identified the accused persons which reveals that these accused persons on the background of enmity have committed murder merely on the date of incident and at the time of inquest, their name was mentioned by CW.2 but, in the inquest panchanama, it was mentioned by the Investigating Officer and also mentioned the vehicle number in which the assailants came and assaulted. This Court while considering the bail petition cannot appreciate and re-appreciate the statement of the witnesses by way of conducting a mini trial. The offence is heinous one punishable with death or imprisonment for life. If the petitioners are granted bail, there is every possibility of committing similar offences, threatening the eye-witness and other witness and absconding from the case are not

ruled out. Therefore, the petitioners-accused Nos.2, 3 and 5 are not entitled for bail.

5. Accordingly, the criminal petition is hereby ***dismissed.***

**Sd/-
JUDGE**

GBB
CT-SG