

Karnataka High Court  
Saibanna vs The State Of Karnataka on 16 May, 2023  
Bench: Hanchate Sanjeevkumar

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CRL.P No. 200312 of 2023

IN THE HIGH COURT OF KARNATAKA  
KALABURAGI BENCH  
DATED THIS THE 16TH DAY OF MAY, 2023  
BEFORE  
THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

CRIMINAL PETITION NO.200312 OF 2023

BETWEEN:

SAIBANNA S/O HANAMANTH SURAPUR,  
AGE: 36 YEARS, OCC: AGRICULTURE,  
R/O: SHETTIKERA VILLAGE,  
TQ. SHAHAPUR,  
DIST. YADGIRI-585 201.

...PETITIONER

(BY SRI B.C.JAKA, ADVOCATE)

AND:

THE STATE OF KARNATAKA  
THROUGH GOGI POLICE STATION,  
TQ. SHAHAPUR, DIST.YADGIRI-585 201  
NOW REPRESENTED BY ADDL. SPP  
HIGH COURT OF KARNATAKA,  
KALABURAGI BENCH-585 107.

...RESPONDENT

(BY SRI VEERANAGOUDA MALIPATIL, HCGP)

Digitally  
signed by B  
NAGAVENI  
Location:  
High Court  
Of Karnataka

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439

OF CR.P.C., PRAYING TO ALLOW THIS PETITION AND ENLARGE  
THE PETITIONER ON BAIL IN S.C.NO.35/2020, PENDING ON  
THE FILE OF SESSIONS JUDGE AT YADGIRI ARISING OUT OF  
THE CHARGE SHEET FILED IN CRIME NO.32/2020 OF GOGI  
POLICE STATION, TQ. SHAHAPUR FOR THE OFFENCES  
PUNISHABLE UNDER SECTIONS 302, 201, 120(B) R/W  
SECTION 149 OF IPC.

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

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CRL.P No. 200312 of 2023

ORDER

This bail application is filed by the petitioner/accused No.2 under Section 439 of Cr.P.C., seeking his enlargement on bail.

2. Brief facts of the case are:

The complainant is the wife of the deceased Nagappa, who is having three brothers viz., accused Nos.1 to 3. It is stated that the deceased and accused Nos.1 to 3 have purchased agricultural land in Sy.No.88, measuring to the extent of 14 acres 34 guntas in the year 2009. Thereafter, family partition took place in between them wherein the deceased was given a share to the extent of 03 acres 29 guntas in Sy.No.88/05. Thereafter, the land was allotted to the deceased, but the name of accused No.1 is continued in the revenue records. Thereafter KIADB had proposed to acquire the land by fixing a sum of Rs.17,42,030/- as compensation per acre. Accused No.1 stated that all brothers shall take equal distribution of the amount by once again repartitioning the CRL.P No. 200312 of 2023 properties, which proposal was rejected by the deceased. In spite of continuous efforts made by the elders and also advice made by accused Nos.1 to 3, the deceased stated that his land is acquired by KIADB and therefore, he alone is entitled for compensation amount and he would not give any compensation to any of his brothers. Therefore, being upset with the same, accused Nos. 1 to 4 made a conspiracy to eliminate the deceased in that event they would also receive the compensation amount. Therefore, in order to eliminate the deceased, they hatched a plan and conspiracy upon knowing the fact that the deceased having illicit relationship with accused No.5 and the deceased was often coming to the house of accused No.5 and accused Nos.1 to 4 have committed the murder of the deceased in the house of accused No.5 on 12.03.2020. Thereafter, in order to destroy the evidence, the accused have thrown the dead body of the deceased in a canal by taking the body in a motorcycle bearing Reg. No.KA.33-U- 8697 and in this way committed the offence of murder. Further, the dead body was found in the canal on CRL.P No. 200312 of 2023 18.03.2020. Thus, based upon a complaint, case came to be registered in Crime No.32/2020 for the offences punishable under Sections 302, 201, 120(B) r/w Section 149 of IPC.

3. This is the successive bail petition filed by the petitioner/accused No.2 for the third time.

4. Learned counsel for the petitioner submitted that the entire case is based on circumstantial evidence. The role alleged against the petitioner/accused No.2 is not having much gravity. Further more, the petitioner is in custody from 29.03.2020. Therefore, for more than three years, petitioner is in custody. Hence, he prays for release of petitioner/accused No.2 on bail. He further submitted that on earlier occasion, this Court directed the Sessions Court to expedite the trial and to dispose of the case as early as possible. But, still the trial is not concluded due to non-cooperation of the State in producing the accused before the Sessions Court for trial and the trial is delayed due to non-production of the accused before the Court by CRL.P No. 200312 of 2023 the officials of the concerned Police Station. He submitted that for these reasons, the petitioner/accused No.2 is in custody for more than three years. Hence, he prays for release of the petitioner on bail.

5. On the other hand, learned High Court Government Pleader submitted that the allegations

against the accused is that they have committed the murder of their own brother for monetary gain in disbursing the compensation amount. When the petitioner is facing severe allegation, it is not proper to release the petitioner on bail. Therefore, he prays for rejection of the bail petition.

6. This Court, on earlier occasion has dismissed the bail petition filed by the petitioner/accused No.2. This Court directed the Sessions Court to comply Section 309 of Cr.P.C., while conducting trial on day-to-day basis and to conclude the trial within a reasonable period of time. Though the charge sheet is filed on 16.06.2020, the trial is not concluded. The reason for delay in conclusion of trial is CRL.P No. 200312 of 2023 that the officials of the concerned Police Station have not made arrangements to produce the accused who are in custody and housed in Central Prison, Kalaburagi, before the Court. As could be seen from the order sheet maintained by the Sessions Court, due to non-production of the accused before the Court, the Sessions Court is not in a position to conclude the trial. The State is responsible for delay in concluding the trial in this case. The petitioner is in custody from 29.03.2020 and since from the date of arrest, the petitioner is in custody. The overt-act alleged against the petitioner is that he held the legs of the deceased.

7. Considering all the circumstances discussed above, this Court inclines to grant bail to the petitioner/accused No.2.

8. Accordingly, the petition is allowed. The petitioner/accused No.2 is enlarged on bail in S.C.No.35/2020 (Crime No.32/2020 of Gogi Police Station), pending on the file of Sessions Court at Yadgiri, CRL.P No. 200312 of 2023 for the offences punishable under Sections 302, 201, 120(B) r/w Section 149 of IPC, subject to the following;

#### CONDITIONS

1. The petitioner shall execute his personal bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) with two solvent sureties for the likesum to the satisfaction of the concerned Court;
2. The petitioner shall not threaten or tamper with the prosecution witnesses;
3. The petitioner shall attend the Court regularly on all the dates of hearing, without fail and shall co-operate for speedy disposal of the case.
4. If the petitioner fails to appear before the Court on two consecutive dates of hearing, then it may entail cancellation of liberty granted by this order.

Sd/-

JUDGE NB