IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE 20^{TH} DAY OF JANUARY, 2022

BEFORE

THE HON'BLE MR. JUSTICE H.P. SANDESH

CRIMINAL PETITION NO.9018/2021

BETWEEN:

SRI MANOJ G GOWDA S/O T.T. GIDDE GOWDA AGED ABOUT 19 YEARS R/O THIMMANAHALLI VILLAGE KASABA HOBLI, HASSAN TALUK HASSAN DISTRICT-573 118

... PETITIONER

(BY SRI SHARAN K, ADVOCATE)

AND:

STATE OF KARNATAKA
BY PENSION MOHALLA POLICE STATION
HASSAN-573 201
REP BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

... RESPONDENT

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

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CRIME NO.63/2021 REGISTERED BY THE PENSION MOHALLA POLICE STATION, HASSAN FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 302, 201 READ WITH SECTION 34 OF IPC AND SECTION 181 OF INDIAN MOTOR VEHICLE ACT AND ETC.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THROUGH VIDEO CONFERENCE THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.63/2021 registered by the Pension Mohalla Police Station, Hassan for the offences punishable under Sections 302, 201 read with Section 34 of IPC and Section 181 of Indian Motor Vehicle Act.

- 2. Heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the State.
- 3. The factual matrix of the case is that this petitioner along with other accused persons due to prior enmity inflicted the injury on the victim with knife which was carried in the car and this incident was witnessed by CW2 and 3 and thereafter they took the body of the victim and destroyed the same throwing to the Yagachi river. Based on the complaint, the police have registered the case, investigated and filed the charge-sheet for the aforesaid offences.

- 4. The learned counsel for the petitioner would submit that the petitioner is aged about 19 years working as Ambulance driver in the hospital and he is in custody from the last 10 months and prosecution case is mainly based on the confession statement made by the accused persons before the Investigating Officer. The learned counsel brought to notice of this Court that accused No.4 has been enlarged on bail in Crl.No.6597/2021 as there is a specific allegation against accused No.4 and there are contradictions in the statements of CW2 and 3 who are the alleged eye-witnesses and the investigation has been completed and there is no need of custodial trial and he may be enlarge on bail.
- 5. Per contra, the learned High Court Government Pleader appearing for the State would submit that the specific allegations are made against this petitioner as well as accused Nos.1 and 2 that this petitioner along with accused No.1 and 2 inflicted the injury with knife and as a result, the victim succumbed to the injuries. The counsel submits that while granting bail to accused No.4, this Court made an observation that he was only accompanied with accused Nos.1 to 3 in a car

and there is no overt act allegations made against accused No.4. But there is a prima facie direct evidence against accused Nos.1 to 3 and hence, prayed to dismiss the petition.

6. Having heard the respective counsel and also on perusal of the documents on record, it is the specific case of the prosecution that accused Nos.1 to 3 inflicted the injury with knife and no doubt, the learned counsel for the petitioner brought to notice of this Court that there are contra statements of the eyewitnesses and also brought to the notice of the Court at the end of the statements of CW2 and 3 that they have stated that accused Nos.1 to 4 have committed the murder but on perusal of the entire statement of CW2 and 3, the specific allegations are made against accused Nos.1 to 3 only that they have inflicted the victim with knife which was carried in the car and only on perusal of the statements of CW2 and 3 further improvement found that accused No.4 also inflicted the injury and hence, this Court has to take note of the specific overt act allegations made against the accused Nos.1 to 3 who have committed the murder and thereafter the body was thrown in the river. When such being the factual aspects of the case, the order passed by this Court in Crl.P.No.6597/2021 will not comes to the aid of this petitioner and the specific overt act allegations are made against this petitioner and accused Nos.1 and 2 is very same that all of them have inflicted the injury with knife and cause of death is also on account of injury sustained by the victim. Hence, it is not a fit case to exercise the discretion in favour of the petitioner.

7. In view of the discussions made above, I pass the following:

<u>ORDER</u>

The bail petition is rejected.

Sd/-JUDGE

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