

Biru @ Beeru vs the State of Karnataka

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Court : Karnataka Kalaburagi

Decided On : Sep-12-2024

Judge : Hemant Chandangoudar

Appeal No. : CRL.P/200486/2024

Appellant : Biru @ Beeru

Respondent : The State of Karnataka

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH DATED THIS THE 12TH DAY OF SEPTEMBER, 2024 BEFORE THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR CRIMINAL PETITION NO. 200486 OF 2024 BETWEEN: BIRU @ BEERU S/O SUREBA KAREPPA @ KARPE, AGED ABOUT 81 YEARS, OCCUPATION: AGRICULTURE, RESIDENCE OF KHILRAHATTI, TALUKA: BABALESHWAR, DISTRICT: VIJAYAPURA-586 101. PETITIONER (BY SRI. SHIVANAND V. PATTANASHETTI, ADVOCATE) AND:

1. THE STATE OF KARNATAKA THROUGH,

POLICE, BABALESHWAR POLICE STATION, Digitally signed by TALUKA: BABALESHWAR, R HEMALATHA DISTRICT VIJAYAPURA-586101. Location:

HIGH COURT OF REPRESENTED BY ADDL. SPP KARNATAKA HIGH COURT OF KARNATAKA, KALABURAGI BENCH-585107.

2. GODABAI

W/O MARAGU PANDRE AGED ABOUT 57 YEARS OCC: HOUSEHOLD WORK R/O KHILARHATTI, TALUK: BABALESHWAR DISTRICT: VIJAYAPUR-586113. RESPONDENTS (BY SRI. F.A. INAMDAR, HCGP; SRI. PRAKASH JADHAV, ADVOCATE FOR R-2) -2- THIS CRL.P. IS FILED U/S. 439 OF CR.P.C PRAYING TO GRANT THE REGULAR BAIL TO THE PETITIONER/ACCUSED NO.1 IN S.C NO. 174/2023 (BABALESHWAR PS CRIME NO.165/2022 DIST. VIJAYAPURA) PENDING ON THE FILE OF IV ADDL. DISTRICT AND SESSIONS JUDGE VIJAYAPURA FOR THE OFFENCES PUNISHABLE UNDER SECTION 302 R/W 34 OF IPC THIS PETITION, COMING ON FOR ORDERS, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

ORAL ORDER

(PER: HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR) The petitioner-accused No.1 is sought to be prosecuted for the offences punishable under Sections 302 r/w 34 IPC.

2. The case of the prosecution is that, there was a

dispute between accused and the deceased with regard to the water which was released from the bathroom, and on 14.11.2022 at about 5.00 p.m., the deceased and her husband were in front of their house, at that time, accused No.1 came with Axe and accused No.2 came with club and both of them picked up the quarrel with the deceased, and accused No.1 assaulted the deceased on the right knee with axe and accused No.2 assaulted the deceased with club on the back of the deceased due which he succumbed to the injuries.

3. The learned counsel for the defacto-complainant

submits that the Trial is set out for examination of the prosecution witnesses, and the petitioner-accused No.1 has every likelihood of tampering the prosecution witnesses. -3-

4. Heard the learned counsel for the petitioner-accused No.1 and learned High Court Government Pleader for the respondent-State.

5. Although the allegation of assaulting the deceased with

an Axe is against accused No.1, the incident occurred due to dispute between the accused and the deceased with regard to the water which was released from the bathroom. Whether the assault made by the accused No.1 was premeditated or not is a matter which requires to be considered at the time of trial. The petitioner-accused No.1 is 81 years as of today, and the petitioner is in judicial custody since 17.11.2022, and the trial is yet to commence. The prolonged pre-trial detention will be an anathema to the concept of liberty, as stated under Article 21 of the Constitution of India.

6. The petitioner-accused No.1 has made out a Prima facie case to enlarge him on bail. Accordingly, I pass the following:

ORDER

i) Criminal Petition is allowed. ii) Petitioner is enlarged on bail in Crime No.165/2022, registered by Babaleshwar Police Station, in SC No.174/2023, pending on the file of IV Additional District and Sessions Judge, Vijayapura, for the offences punishable under Sections 302 r/w 34 of IPC, subject to the following conditions: -4-

(a) Petitioner-accused shall furnish a personal bond for a sum of Rs.1 lakh with one surety for the likesum to the satisfaction of the jurisdictional Court;

(b) He shall appear before the Court as and when required;

(c) He shall not threaten or allure the Prosecution witnesses in whatsoever manner;

(d) He shall not got involved in similar offences;

(e) He shall not leave the territorial limits of the Trial Court without prior permission of the Trial Court. Sd/- (HEMANT CHANDANGOUDAR) JUDGE HR

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