

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT DHARWAD

DATED THIS THE 23<sup>RD</sup> DAY OF JUNE, 2010

BEFORE

THE HON'BLE MR.JUSTICE JAWAD RAHIM

CRIMINAL PETITION NO.7589/2010

&

CRIMINAL PETITION NO.7598/2010

&

CRIMINAL PETITION NO.7617/2010

CRIMINAL PETITION NO.7589/2010

BETWEEN:

MAHADEVI,  
W/O. MARUTI DURGAI,  
AGE 42 YEARS,  
OCC: HOUSEHOLD,  
R/A. DEVAGIRI,  
TQ. & DIST. DHARWAD

... PETITIONER

(BY SRI B.V. SOMPUR, ADV.,)

AND:

THE STATE OF KARNATAKA  
REP. BY SPECIAL PUBLIC PROSECUTOR  
BY ALVANAR POLCIE.

... RESPONDENT

(BY SRI V.S.KULKARNI, HCGP)

THIS CRIMINAL PETITION IS FILED U/S. 439 CR.P.C.  
SEEKING TO ENLARGE THE PETITIONER ON BAIL IN



CONNECTION WITH ALNAVAR POLICE STATION CRIME NO.10/2010 UNDER SECTION 143,147,148,448,504,302 R/W.149 IPC, WHICH IS NOW REGISTERED IN C.C.NO.988/2010 PENDING ON THE FILE OF LEARNED JMFC- II, DHARWAD.

CRIMINAL PETITION NO.7598/2010

BETWEEN:

1. SANJU @ SANJAY  
S/O. SAMBAJI DURGAI,  
AGE: 26 YEARS,  
AGRICULTURE.
2. RAVI MUDUKAPPA JOTHIBA,  
AGE: 26 YEARS, AGRICULTURE.

BOTH RESIDENTS OF  
DEVAGIRI VILLAGE  
TQ & DIST: DHARWAD.

...PETITIONERS

(BY SRI. B.V.SOMAPUR, ADV.,)

AND:

THE STATE OF KARNATAKA  
REP. BY SPECIAL PUBLIC PROSECUTOR  
BY ALVANAR POLCIE.

... RESPONDENT

(BY SRI V.S.KULKARNI, HCGP)

THIS CRIMINAL PETITION IS FILED U/S. 439 CR.P.C. SEEKING TO RELEASE THE PETITIONER ON BAIL IN ALNAWAR POLICE STATION, CRIME NO.10/10 UNDER SECTION 143, 147, 148, 448, 504, 302 R/W SECTION 149 OF IPC WHICH IS NOW REGISTERED AS C.C.NO.988/2010 PENDING ON THE FILE OF THE LEARNED JMFC II, DHARWAD.



CRIMINAL PETITION NO.7617/2010

BETWEEN:

1. ANAND S/O. TANAJI DURGAI,  
AGE: MAJOR,  
OCC: AGRICULTURE.
2. MALLAPPA @ MALLIKAJUN,  
S/O. VITTAL DURGAI,  
AGE: MAJOR,  
OCC: AGRICULTURE.

BOTH ARE RESIDENTS OF  
DEVAGIRI VILLAGE,  
TQ & DIST: DHARWAD.

...PETITIONERS

(BY SRI. B.R.SOMAPUR, ADV.,)

AND:

THE STATE OF KARNATAKA  
REP. BY SPECIAL PUBLIC PROSECUTOR  
BY ALNAR POLCIE.

... RESPONDENT

(BY SRI V.S.KULKARNI, HCGP)

THIS CRIMINAL PETITION IS FILED U/S. 439 CR.P.C.  
SEEKING TO GRANT ANTICIPATORY BAIL TO THE  
PETITIONER IN ALNAR POLICE STATION, CRIME  
NO.10/2010 UNDER SECTION 143, 147, 148, 448, 504,  
302 R/W SECTION 149 OF IPC PENDING ON THE FILE OF  
THE LEARNED JMFC II, DHARWAD.

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



ORDER

These three petitions are by the accused who are facing charge for offence punishable under Sections 143, 147, 148, 448, 504, 302 R/W Sec. 149 IPC.

2. Crl.P.No.7589/2010 is filed by accused No.11, Crl.P.No.7598/2010 is by accused Nos.9 and 12 and Crl.P.No.7617/2010 is by accused Nos.7 and 4. Petitioners in Crl.P.No.7589/2010 and Crl.P.No.7598 are in judicial custody. They seek bail under Section 439 of Cr.P.C. while petitioners in Crl.P.No.7617/2010 are not yet arrested. They seek anticipatory bail.

3. Heard the learned counsel for petitioners and the learned Government pleader.

4. The prosecution case is based on the report of Smt.Katumbi W/o. Amminsab Pendari in which she alleged that accused No.3 – Mahantesh wanted to marry one Shilpa but her family members including parents opposed the marriage, consequent to which Shilpa left the village. Later,



parents of Shilpa agreed to marry her with Mahantesh (accused No.3) and marriage was performed on 23.01.2010.

5. It is alleged at 8.00PM on 23.01.2010 Complainant's sons Moulasab and Sayyed came running to the house chased by Maruti Vital Durgai and others. All of them were armed with choppers, clubs and other weapons. It is alleged Mahadevi started beating Complainant's son Moulasab with hands and abusing them in filthy language. Maruthi Vital Durgai, Pundalik Durgai, Mahantesh Durgai, Tangji Durgai, Ashok Durgai, Ravi Jyotiba, Mahanthesh Jyotiba and Sahadev Durgai assaulted Complainant's son Sayyad with axe, sickle, koita and stone, consequent to which he fell down. When Complainant's second son Moulasab came to rescue but he was also chased. Moulasab ran from the spot to escape the assault. But, the persons named above are alleged to have assaulted him with axe and sickle including clubs and stones near water tank of the village. Moulasab also fell to injuries and succumbed to the same. The Complainant claiming to have witnesses the



incident described the overt acts of each of the accused and sought action against them.

6. Investigation resulted in arresting accused No.1, 2, 3, 6, 9, 11, 12, 13 and 14, while the other accused were absconding. During investigation statement of 29 witnesses are recorded. Autopsy discloses sayyad died due to sufferance of shock as a result of 19 injuries to his body including severe injury to head. Moulasab died due to sufferance of five grievous injuries and also major injury to the brain. Thus, the accused are arraigned for the major offence punishable under Section 302 of IPC. The Complainant has described the overt acts of the petitioners in killing Sayyad and Moulasab. The Complainant has identified in all 14 persons and she has also described the overt acts of the petitioners in these petitions.

7. Therefore, at this juncture there is no sufficient material to bring nexus between the overt acts of the petitioners in CrI. Pet. No.7617/2010 (accused No.4 to 7) and also overt acts of petitioners in other petitions. They cannot



be placed on different pedestal. All of them have roped together using provisions of Section 149 of IPC. Therefore, I find no ground to grant them relief sought for. Petitions are rejected.

Sd/-  
JUDGE

BS\*  
VK