

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT DHARWAD

DATED THIS THE 31<sup>ST</sup> DAY OF JANUARY 2011

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

**CRIMINAL PETITION No.10090/2011**

**BETWEEN:**

1. Tailor Kranthi Kumar,  
S/o late T. Neelakantappa,  
Age 25 years, Occ: Tailor,  
R/o Karimaremma Colony,  
Bellary.
  2. Chandra,  
S/o late Rajanna,  
Age 27 years, Occ: Painter.  
R/o Sathyavaninagar,  
Bellary.
- ... Petitioners

(By Shri T. Hanumareddy, Advocate)

**AND:**

The State by  
Sub-Inspector of Police,  
Cowl Bazar Police Station,  
Bellary.  
Rep. by SPP, High Court of Karnataka,

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Circuit Bench, Dharwad.

... Respondent

(by Sri Anand Kumar Navalгимath, GP)

This Criminal Petition is filed under Section 438 of the Code of Criminal Procedure, praying to release the petitioners on bail in the event of their arrest in Crime No.199/2010 on the file of the Cowl Bazar Police Station, Bellary, for offences punishable under Sections 143, 147, 148, 323, 302, 341 read with Section 149 of the Indian Penal Code, and etc.

This petition coming on for Orders this day, the Court made the following:

### **ORDER**

Heard the learned Counsel for the petitioners and the learned Government Pleader.

2. The brief facts are as follows:

One Smt. Eramma has filed a complaint on 19.10.2010, to state that she and her husband are residing in Sathyavaninagar, Bellary. Her brothers live nearby. It is stated that, there was enmity between his brothers and one Ramesh and his accomplices of Karimaremma Colony, and on account

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of continued attacks and counter attacks between these two groups, the brothers of the complainant are said to be in judicial custody. Her younger brother Gopal was, however, not taken into custody and he was seeking to help his other brothers who were in custody by supplying them food in jail and also seeking to obtain their release.

It transpired that, three days prior to the incident, Ramesh called Gopal on his phone and warned him that he would not be spared if he tried to help his brothers who were in jail. On 19.10.2010, Gopal was helping the complainant to set right a problem with the electricity wiring of her house, and had gone along with one Laxmipathi to purchase electrical wire. Since the money that was given to Gopal was not sufficient to purchase the wire, the complainant had followed Gopal and Laxmipathi to hand-over some more amount of money. At that point of time, the complainant had seen accused No.2 along with others in a vehicle and on seeing them, the complainant

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had run ahead to warn Gopal about the impending attack by accused no.2 and his group.

At that time, it transpired that several accused attacked Gopal. Accused No.1 had thrown chilly powder on the face of deceased Gopal and accused No.1 had hit him on his head and right arm with a chopper and petitioner no.1 had hit the said deceased with a chopper on his back and on the left elbow and the other accused also assaulted with sticks and hand. As a result of the injuries suffered, the deceased had succumbed and it was on that basis that the criminal case was initiated against the accused.

3. The accused having approached the Court below for bail, petitioner no.1 therein who was accused No.2 in the criminal case, was granted bail and the bail petition of others was rejected. The present petitioners are before this Court contending that the overt acts alleged against these petitioners did not result in the death of the deceased and therefore, the

accused No.2 who was instrumental even according to the complainant, in bringing about the death of the deceased, having been enlarged on bail, it stands to reason and in all fairness, to grant bail to the present petitioners.

4. On the other hand, the learned Government Pleader has filed Statement of Objections to contend, that in so far as petitioner No.1 is concerned, there is much incriminating material which would disentitle petitioner No.1 to be enlarged on bail. The statement Eramma-the complainant, who was an eye witness, to the petitioner No.1 having assaulted the deceased with a machhu on his right shoulder and left elbow, and further the shop owner where Gopal was purchasing the electrical wire was also an eye witness to the incident, apart from Laxmipathi who had accompanied Gopal to the said electrical store and the admitted longstanding dispute between the complainant's brother and Ramesh and his accomplices, would disentitle the petitioners to be considered for grant of

bail, as the petitioners are likely to interfere with the prosecution witnesses and hamper the prosecution case and therefore, he would submit the bail petition be rejected.

5. It is seen, that the allegations in so far as petitioner no.1 is concerned, are on the basis of the statements of eye witnesses and even according to the said eye witnesses, the involvement of petitioner no.2 was to the extent that he had assaulted the deceased with his hands. This by itself would not be sufficient to bring home the serious charge of offence under various sections cited above and hence, petitioner no.2 would be entitled to be enlarged on bail subject to the trial at which, it may be possible for the prosecution to establish his involvement for an offence punishable as aforesaid.

6. Accordingly, the petition of petitioner No.1 is rejected in view of the substantial incriminating material against him, which on the face of it, would disclose that he was squarely involved. Whereas the case as against petitioner No.2

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is not as serious as sought to be made out. Therefore, Petitioner No.2 is entitled to be enlarged on bail subject to the following conditions:

1. In the event the petitioner is arrested, he shall be enlarged on bail on furnishing a personal bond for a sum of Rs.25,000/- with a solvent surety for a like sum.
2. The petitioner shall not in any manner interfere or try to influence the prosecution witnesses.
3. The petitioner shall not leave the jurisdiction of the Court without the leave of the Court.
4. The petitioner shall make himself available for trial at all points of time.
5. The petitioner is granted four weeks time to approach the Court to seek for regular bail.

**Sd/-  
JUDGE**

sub/