

IN THE HIGH COURT OF KARNATAKA BANGALORE

DATED THIS THE 28TH DAY OF DECEMBER, 2012

BEFORE

THE HON' BLE DR. JUSTICE JAWAD RAHIM

CRL.P NO 7533 OF 2012

BETWEEN

MR KALAIHA,  
AGED ABOUT 36 YEARS,  
S/O LATE SOMAIAH,  
RESIDING AT KUKLOOR VILLAGE,  
VIRAJPET.  
KODAGU DISTRICT.

... PETITIONER

(BY SHRI. T RAJARAM, ADVOCATE)

AND

THE STATE OF KARNATAKA,  
BY VIRAJPET TOWN POLICE,  
KODAGU DISTRICT.

... RESPONDENT

(BY SHRI.RAJA SUBRAMANYA BHAT, HCGP)

CRL.P FILED U/S.438 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO ENLARGE THE PETITIONER ON ANTICIPATORY BAIL IN THE EVENT OF HIS ARREST IN CR. NO.65/2012 OF VIRAJPET P.S., KODAGU DIST., WHICH IS REGISTERED FOR THE OFFENCE P/U/S 143,144,146,147,148,323,307 AND 114 R/W SEC.149 OF IPC.

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

ORDER

Petitioner is the 2<sup>nd</sup> accused charged along with the 1<sup>st</sup> accused – Kalaiah for offences punishable under Sections 143, 144, 146, 147, 148, 323, 307 and 114 read with Section 149 of the IPC, regarding assault of K.C.Srinivasa.

2. Petitioner is not yet arrested. Apprehending arrest, he seeks bail.

3. Prosecution has opposed the petition.

4. Perusal of the records, the papers would show that K.C. Srinivasa was assaulted by Kalappa, first accused with clubs. The petitioner is stated to be one of the accused persons along with the 1<sup>st</sup> accused at the time of assault.

5. In the complaint, there is a vivid description of the incident which reveals the nature of the injuries suffered by the complainant. Though the complainant has mentioned the presence of the accused who is petitioner in

this petition namely, Kalaiah, as the specific overt acts are not spelled out, it is difficult to conclude which injury was caused by him and what object he had used.

6. Be that as it may, the victim is out of danger and is available to the prosecution as the best witness. In this view of the matter, the detention of the petitioner may not be justified. Hence, it would be appropriate to bind him over by imposing appropriate conditions:

7. The petition is allowed on the following conditions;

i) The petitioner is directed to appear before the investigating officer in charge of investigation in Crime No.65/2012 of Virajpet P.S., within two weeks and on his appearance, the investigating officer may arrest him and shall release him on bail on his executing a bond in a sum of Rs.25,000/- with one surety for the like sum to the satisfaction of the said officer.

ii) He shall appear before the investigating officer as and when required and subject himself to interrogation without causing any impediment in the investigation.

iii) He shall not leave the jurisdiction of the Trial Court without prior permission.

iv) He shall not tamper the prosecution material or evidence in any manner.

**SD/-  
JUDGE**

Msu