

IN THE HIGH COURT OF KARNATAKA,
CIRCUIT BENCH AT GULBARGA

DATED THIS THE 31ST DAY OF JANUARY, 2013

BEFORE

THE HON'BLE MR.JUSTICE ANAND BYRAREDDY

CRIMINAL PETITION NO.15014 OF 2013

BETWEEN:

Mohd. Kalimuddin
S/o Mohd. Moinuddin Inamdar
Age: 27 years, Occ: Business,
R/o Bande Nawaz Colony, Gulbarga.

... PETITIONER

(Shri Nandakishore Boob, Advocate)

AND:

The State of Karnataka
Through Grameen Police Station,
Gulbarga.

... RESPONDENT

(Shri Sanjay A Patil, Additional State Public Prosecutor)

This Criminal Petition is filed under Section 439 of Code of Criminal Procedure, 1973, praying to release the petitioner on bail in Crime No.82/2012 of Grameen Police Station, Gulbarga, which is registered for the offence punishable under

Section 143, 147, 148, 504, 114, 324, 326, 341, 307, 302, 109 read with Section 149 of the Indian Penal Code, 1860.

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

ORDER

The learned Additional State Public Prosecutor seeks time to file statement of objections. However, this Court is already seized of the very incident, at the instance of other accused, who had approached this Court earlier and therefore, given the circumstances of the case, the petition is taken up for final disposal.

2.The petitioner herein is arrayed as accused No.9 in the following circumstances:

The complainant one Imran Khan is a resident of Gulbarga. A parcel of agricultural land measuring 1 acre 25 gutnas bearing Survey No.45 of Hagarga Village, Taluk and District Gulbarga, stood in the name of Noorjahan, who sold the said land to one Adam Qureshi. Adam Qureshi in turn sold

it to one Ali Khan and his partners. There was a civil dispute as regards the validity of the sale, since it was claimed that it was a Wakf property. This resulted in two rival groups not allowing each other to enter upon the land and to cultivate the same. To settle this dispute, there was a meeting arranged between the rival groups. When one group was waiting for the others to come, the accused are said to have armed with deadly weapons and other articles, used as deadly weapons, and assaulted the waiting members of the other group. It is in that context that the present petitioner is also been named as one of the accused. The peculiarity of the present case is that the present complainant who had named the several accused and had attributed overt acts to each of them, has given three additional statements on several dates after the complaint was lodged, changing his version on each occasion. The same is the case with the present petitioner, who was firstly named and attributed of an overt act of using a knife to assault CW-1. In the further statements the version has been changed to state that

he was carrying a baseball bat, with which he assaulted CW-1 on his back, which is diametrical a different version that was stated earlier. The complainant has followed the same manner, in so far as the other accused are concerned and it is this, which had prompted this Court to grant bail in respect of several accused. By parity of reasoning, the present petitioner is also entitled to bail, in the light of the vacillating statements of the complainant. It would be for the prosecution, to establish the case against each of the accused, beyond all reasonable doubt at the trial.

3. Therefore, the petition is allowed. The petitioner shall be enlarged on bail subject to the following conditions:

- i. The petitioner shall offer self bond for a sum of Rs.20,000/- (Rupees Twenty Thousand Only) with a solvent surety for a like sum to the satisfaction of the Trial Court.

- ii. The petitioner shall not leave the jurisdiction of the Court below without the leave of the Court.
- iii. The petitioner shall offer all cooperation in the investigation of the offence.
- iv. The petitioner shall make himself available for further investigation at all points of time.
- v. The petitioner shall attend the Court on all dates of hearing of the case.
- vi. The petitioner shall not, in any manner seek to tamper with the prosecution evidence.

Sd/-
JUDGE

swk