

**IN THE HIGH COURT OF KARNATAKA
GULBARGA BENCH**

DATED THIS THE 30TH DAY OF SEPTEMBER, 2013

BEFORE

THE HON'BLE MR. JUSTICE B V PINTO

CRL.PETITION NO.15818/2013

BETWEEN

1. SACHIN S/O SHAKHA UPADYA
AGE: 19 YEARS, OCC: DAILY WAGES EMPLOYEE
IN CITY MUNICIPAL CORPORATION
R/O MANGARWADI, GULBARGA
2. MAHESH S/O KUMAR UPADYA
AGE: 20 YEARS, OCC: DAILY WAGES EMPLOYEE
IN CITY MUNICIPAL CORPORATION, GULBARGA
R/O BAPUNAGAR, GULBARGA
3. CHAKRAVARTHI S/O KUMAR UPADYA
AGE: 20 YEARS, OCC: DAILY WAGES EMPLOYEE
IN CITY MUNICIPAL CORPORATION, GULBARGA
R/O BAPUNAGAR, GULBARGA
4. ARJUN S/O GULAB KALE
AGE: 22 YEARS, OCC: DAILY WAGES EMPLOYEE
IN CITY MUNICIPAL CORPORATION, GULBARGA
R/O BAPUNAGAR, GULBARGA

...PETITIONERS

(BY SRI.M.K.PATIL, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH UNIVERSITY PS

REPRESENTED BY ADDL SPP
HIGH COURT OF KARNATAKA
GULBARGA

...RESPONDENT

(BY SRI.S.S.ASPALLI, HCGP)

THIS CRL.P. IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING TO RELEASE THE PETITIONERS IN CRIME NO.278/2013 OF UNIVERSITY POLICE STATION GULBARGA, WHICH IS REGISTERED FOR THE OFFENCE P/U/S 397 OF IPC.

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

ORDER

This petition is filed seeking bail in Crime No.278/2013 of University Police Station registered on 31/07.2013 for the offence punishable under Section 397 of IPC.

2. It is the case of the complainant that on 30.07.2013 at about 9.30 p.m. four unknown persons entered to the wine shop namely Samartha Wine Shop, Tadakal, Aland, where the complainant is working as Manager and after consuming liquor they came near the cash counter with a knife and assaulted him on his

head and caused injuries and thereafter, petitioner along with other persons have taken away a sum of Rs.43,000/- from the cash counter and one of the persons assaulted the complainant with the stone due to which the complainant fell down and sustained bleeding injuries on various parts of the body. On the basis of the information given by the complainant, case came to be registered.

3. Sri.M.K.Patil, learned counsel for the petitioners submits that accused No.1 Javid Patel has been granted bail by this Court. Hence, on the ground of parity other accused may also be released on bail. He further submits that the complainant has given another complaint before the SP only to harass the petitioners. Further he submits that in the event of this Court not acceding to the request for regular bail, since they were arrested on 03.08.2013 they may be permitted to apply for default bail under Section 167(2) Cr.P.C. and

reserving liberty to the petitioners to apply for default bail under Section 167(2) of Cr.P.C. or for regular bail after filing charge sheet, this petition may be disposed of.

4. Sri.S.S.Aspalli, learned HCGP on the other hand submits that accused No.1-Javid Patel had not assaulted the complainant nor snatched cash from the cash counter of the wine shop, he had only instigated the commission of offence by other accused, whereas other petitioners have actively participated in the crime.

5. Having regard to this fact it is necessary to go through the charge sheet on completion of investigation and hence at this stage the petitioners are not entitled for bail.

6. Petition is dismissed.

**Sd/-
JUDGE**

Sdu