

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 31ST DAY OF OCTOBER 2013

BEFORE

THE HON'BLE MR.JUSTICE H.S.KEMPANNA

CRIMINAL PETITION NO.6224/2013

CONNECTED WITH

CRIMINAL PETITION NO.6315/2013

CRL.P. NO.6224/2013 :

BETWEEN:

1. ASHOK KUMAR
AGED ABOUT 42 YEARS,
S/O. BABU BANGA,
R/AT : CHAMPA NIVAS,
MANTRADY VILLAGE,
MANGALORE TALUK,
OCC: CONTRACTOR AND
OWNER OF QUARRY
2. PRASHANTH,
AGED ABOUT 27 YEARS,
R/AT: ANUGRAHA NIVASA,
HOSABETTU VILLAGE &
POST MANGALORE TALUK,
OCC : FLOWER MERCHANT
IN MOOBBIDRI CITY – 586 212
3. PRASAD ALVA,
S/O. PRAKASH ALVA,
R/AT: VIDYA NILAYA,
KODANGALLU POST,
KARINJE VILLAGE MOOBBIDRI,
MANGALORE TALUK,
OCC: AUTO DRIVER IN

MOODBIDRI CITY – 586 212

4. RATHNAKAR DEVADIGA
AGED ABOUT 52 YEARS,
S/O. LATE KOOSA DEVADIGA,
MOODBIDRI,
MANGALORE TALUK,
OWNER OF TRAVEL AGENCY
'MANISH' IN BUS STAND
IN MOODBIDRI – 586 212

5. SANTHOSH KUMAR
AGED 29 YEARS
S/O. SHIVAPPA SALIAN,
R/AT: PADUBAKYAR HOUSE,
HOSABETTU POST,
MOODBIDRI,
MANGALORE TALUK,
OCC: AGRICULTURE ... PETITIONERS

(BY SRI.K.M.NATARAJ, SENIOR ADVOCATE
FOR SRI.H.MALATESH, ADV.)

AND:

THE STATE
REPRESENTED BY
THE POLICE INSPECTOR,
MOODBIDRI POLICE STATION,
MOODBIDRI,
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA
BANGALORE – 560 001 ... RESPONDENT

(BY SRI.B.VISWESWARAIAH, HCGP,)

THIS CRIMINAL PETITION IS FILED UNDER SECTION
438 OF CR.P.C. PRAYING TO ENLARGE THE PETITIONER
ON BAIL IN THE EVENT OF THEIR ARREST IN

CR.NO.208/2013 OF MOODABIDRE P.S., MANGALORE CITY, WHICH IS REGISTERED FOR THE OFFENCES P/U/S.279, 324, 307 R/W. 34 OF IPC AND SEC.27A, 30 OF THE ARMS ACT, 1959.

CRL.P. NO.6315/2013 :

BETWEEN:

1. MR. SHANTHI PRASAD HEGDE,
AGED 40 YEARS,
SON OF SHRIDHAR HEGDE,
RESIDING AT KERDILA,
THODAR VILLAGE, MOODBIDRI,
MANGALORE TALUK,
OCC: ADVOCATE,
OFFICE: KARKERA COMPLEX,
NEAR BUS STAND,
MOODBIDRI,
MANGALORE TALUK – 576 128
 2. MR. DIVYAVARMA,
AGED 31 YEARS,
SON OF RAGHUCHANDRA BALLAL,
SHUBHA NIVAS,
PADUMARNAD VILLAGE,
MOODBIDRI, MANGALORE TALUK,
OCC : PHOTOGRAPHER,
NATURAL DIGITAL STUDIO,
KARKERA COMPLEX,
NEAR BUS STAND, MOODBIDRI,
MANGNALORE TALUK – 576 128
- ... PETITIONERS

(BY SRI.K.M.NATARAJ, SENIOR ADVOCATE
FOR SRI.CHARAN KUMAR K.V., ADV.)

AND:

THE STATE
REPRESENTED BY
THE POLICE INSPECTOR,

MOODBIDRI POLICE STATION,
MOODBIDRI,
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA
BANGALORE – 560 001

... RESPONDENT

(BY SRI.B.VISWESWARAIAH, HCGP,)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 OF CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF THEIR ARREST IN CR.NO.208/2013 OF MOODABIDRI P.S., MANGALORE CITY, WHICH IS REGISTERED FOR THE OFFENCES P/U/S.279, 324, 307 R/W. 34 OF IPC AND SEC.27A, 30 OF THE ARMS ACT, 1959.

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

ORDER

The petitioners in these two petitions who are arrayed as accused nos.3 to 7 ad 1, 2 respectively, in Crime No.208/2013, on the file of Moodabidri Police Station, registered for the offences punishable under Sections-279, 324, 307 read with Section-34 of I.P.C. and under Sections-27A and 30 of the Arms Act, 1959

are before this Court seeking for grant of anticipatory bail.

2. The respondent-police on the complaint of one Tansir Ahammad, son of Abdul Khadar, a resident of Pranthya Village, Mangalore Taluk have registered the above case against the petitioners and have taken up investigation.

It is alleged among other things on 25.09.2013, at about 1.30 p.m. the complainant after coming from Mangalore in a bus was proceeding walking towards the mosque at Moodbidri. While he was in front of Lavanya Fancy stores, an Innova Car driven by the first accused in the reverse direction rashly and negligently, dashed against the complainant and when he questioned the same with the first accused, an altercation took place and at that time, the other petitioners, who are accused nos.2 to 7 joined accused no.1 and at that the time of altercation between the complainant and accused, accused no.1 took out a fire arm which was in his

possession and opened fire in the air to scare away the complainant. It is alleged that the first accused aimed at the complainant with the fire arm to finish him off. But it missed. The other accused joined the first accused in assaulting and attempting to commit a murder of the complainant.

3. On the basis of the said complaint, the respondent-police registered the above case against petitioners and have taken up investigation.

4. Shri. K.M. Nataraj, learned Senior Counsel and Shri.H.Maltesh, learned counsel appearing for the petitioners contend that there was a clash between the two i.e., the complainant and his henchman on the one hand and the petitioners on the other hand in respect of the car of the first accused touching the complainant, while he was taking the same in the reverse direction. In the said clash, the persons from the complainants group and the petitioners group sustained injuries. They contended either the complainant or the first

accused have not sustained serious injuries, which would have resulted in their death on account of assault made on them by each other. The entire occurrence has taken place at the spur of the moment, when the car touched the complainant while it was taken in the reverse direction. They further submit a small tiny incident has been blown up by both sides to make it appear that a serious offence has been committed by either of them, which was not warranted. He further submits that on the complaint of the first petitioner a case in Cr.No.207/2013 has been registered against the complainant and his henchmen for the offences under Sections-341, 323, 307 of I.P.C. read with Sections-34 and 25 of the Arms Act. He further submit that in view of the case and the counter case that has been registered and as the complaint filed by the first accused is earlier to the complaint filed by the complainant in this case and as none of them have sustained any serious injuries, the petitioners be granted the reliefs as sought for by them.

5. Per contra, the learned High Court Government Pleader vehemently opposed the application filed by the petitioner.

6. A perusal of the first information filed by the first informant discloses that the first accused has opened fire. There is nothing on record to show that any one much less complainant has sustained any fire arm injuries. At the time of the hearing, the learned Senior Counsel produced before me the wound certificate of the first informant which discloses that he has only sustained a abrasion. He submitted that insofar as the first accused is concerned, he has also sustained injuries of the similar nature as that of the first informant. It appears in an altercation that has taken place between the two groups they have sustained injuries. Unfortunately, the complainant and the first accused at the behest of persons for the reasons best known to them have blown up the issues which was uncalled for. However, without going into those aspects

of the matter, having regard to the background in which the occurrence has taken place, the injuries that have been sustained by the complainant, the first accused and their fellowmen and having regard to the case and counter case registered in the circumstances, I do not find any justification to decline the request of the petitioners. Hence, I pass the following order:

ORDER

Both the Criminal Petitions are allowed.

The petitioners in both the petitions in the event of their arrest in Cr.No.208/2013 of the respondent-police, the said police are directed to release them on bail on each of them executing a personal bond in a sum of Rs.50,000/- with one surety for the likesum to the satisfaction of the respondent-police, subject to the following condition:-

- i. They shall appear before the respondent-Police on or before 30.11.2013 for the purpose of their arrest and release.

- ii. They shall not tamper with the prosecution witnesses.
- iii. They shall make themselves available to the investigating agency as and when required for the purpose of investigation.

Sd/-
JUDGE

JJ