

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST 2015

BEFORE

HON' BLE MR. JUSTICE L. NARAYANA SWAMY.

CRL.P.No.4450/2015

BETWEEN:

MOHAMMED NAUSHAD
ADULT
SON OF DATAGIRI SAB
NEAR CHIBAWAN COMPOUND
8TH BLOCK, CHOKKABETTU
SURATHKAL
MANGALURU – 575 005.

... PETITIONER

(By Sri.MOHAMMED TAHIR, ADV.)

AND:

STATE OF KARNATAKA
REPRESENTED BY
MANGALURU EAST POLICE STATION
DAKSHINA KANNADA DISTRICT – 575 005.

... RESPONDENT

(By SRI. K.NAGESHWARAPPA, HCGP)

THIS CRL.P IS FILED U/S.438 CR.P.C BY THE
ADVOCATE FOR THE PETITIONERS PRAYING THAT THIS
HON'BLE COURT MAY BE PLEASED TO ENLARGE THE
PETRS. ON BAIL IN THE EVENT OF HIS ARREST IN
CR.NO.83/2015 OF MANGALORE EAST P.S., MANGALURU
CITY FOR THE OFFENCE P/U/S 504,323,324,307 R/W OF
IPC.

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

ORDER

The petitioner is Accused No.1 for the offences punishable U/Ss 504, 323, 324 r/w Section 34 of IPC in Crime No.83/2015 registered by the respondent – police.

2. Initially the case was registered for the offences punishable U/Ss 302, 327 r/w Section 34 IPC. Thereafter, Section 307 has been inserted.

3. To constitute an attempt of murder under Section 307 IPC, there is no allegation of attempt of murder in the complaint. The complaint itself reads that the complainant and the petitioner were carrying on the business of flower vending for the last 15-20 years and it is seen in the complaint that there was galata regarding returning of the amount of Rs.400/- from the complainant to the accused and the same has not been paid. This has resulted that the accused 1 and 2 have committed the offences mentioned above, of which A-1 has assaulted on the head of the complainant by using club resulting in five injuries on the

vital part of the body. Be that as it may, the prosecution has inserted Section 307 IPC.

4.The learned counsel for the petitioner submitted that the injured has been treated and discharged from the hospital and the petitioner would co-operative with the investigation. Hence prays for grant of bail.

5. The learned Govt.Pleader submitted that in the wound certificate it is referred that the injured has suffered five injuries which are grievous in nature. The injuries caused in such a manner would normally result in death or definitely an attempt to murder. In case if the petitioner is not available for investigation and if he absconds, it is difficult to secure his presence and hence sought direction to the petitioner to surrender before the I.O.

6. I have heard the learned counsel for both sides. The complainant states that the petitioner and himself were known for the past 15 years and they are carrying on the business of flower vending. Since the complainant has not returned Rs.400/- taken from the accused, that has become cause for assault.

7. I have perused the wound certificate and the same reveals that there is laceration on left parietal region, fracture of left squamous temporal and parietal bone with underlying extradural hematoma, right temporal region subdural hematoma, fracture of left squamous temporal and parietal bone with underlying extradural hematoma etc., These nature of injuries itself speaks of the fact that the petitioner has committed grave offences. This is no doubt grievous offences committed by this petitioner, but the facts reveal that there was no preparation and sudden provocation for committing the offences Hence I am inclined to grant anticipatory bail. Accordingly, this petition is allowed and anticipatory bail is granted to the petitioner subject to following conditions:

i) The petitioner shall surrender before I.O. and in the event of his arrest, he shall be released on bail on executing self bond for a sum of Rs.50,000/- with one surety for the like sum.

ii) The petitioner shall appear before the I.O. regularly on every day between 10.00 am and 5.00 p.m. for two weeks without any single default.

iii) Further he has to appear before the I.O on every Saturday between 10.00 am and 5.00 p.m for further two weeks or till the completion of the investigation and filing of charge sheet whichever is earlier.

If there is any single failure of the above conditions, the respondent is at liberty to move the Court for cancellation of bail.

**Sd/-
JUDGE**

Nm/-