IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF DECEMBER 2015

BEFORE

THE HON'BLE MR. JUSTICE B.MANOHAR

CRIMINAL PETITION No.8885 OF 2015
C/W
CRIMINAL PETITION No.8888 OF 2015

IN CRL.P.No.8885/2015
BETWEEN:

SHIBIL AHMED
S/O. SHAFI AHMED
AGED ABOUT 21 YEARS
R/AT. DOOR NO.3
BRIGADE NEST APARTMENT
1ST CROSS, MARCOM ROAD
ASHOK NAGAR
BANGALORE-560025

...PETITIONER

(BY SRI SATISH R GIRJI, ADV.,)

AND:

THE STATE OF KARNATAKA
BY MANGALORE EAST POLICE STATION
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA
ANNEXURE TO COURT BUILDING
BANGALORE-560001

...RESPONDENT

(BY SRI K. NAGESHWARAPPA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.244/2015 OF MANGALORE EAST P.S., MANGALORE CITY FOR THE OFFENCE P/U/S 506, 341, 307, 323, 324 R/W 34 OF IPC.

IN CRL.P.No.8888/2015

BETWEEN

SHEIK SALMAN
S/O. SHEIK MAQBOOL AHMED
AGED ABOUT 23 YEARS
R/AT. FATHIMA VILLA
MOIDEEN NAGAR, 1ST CROSS
MOIDEEN PALLI, KUDROLI
MANGALURU, D.K. DISTRICT – 575003

…PETITIONER

(BY SRI. SATISH R. GIRJI, FOR SRI B. LETHIF, ADVOCATE)

AND

THE STATE OF KARNATAKA
BY MANGALORE EAST POLICE STATION
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA
ANNEXURE TO COURT BUILDING
BANGALORE-560001

…RESPONDENT

(BY SRI K.NAGESHWARAPPA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C., PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.244/2015 OF MANGALORE EAST P.S., MANGALOORU CITY FOR THE OFFENCE P/U/S 504, 506, 341, 307, 323, 324 R/W 34 OF IPC.

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

C O M M O N O R D E R

Petitioners have filed these two criminal petitions under Section 439 Cr.P.C, seeking for their release on bail, in Crime No.244/2015 for the offences punishable under Sections 504, 506, 341, 307, 323, 324 r/w Section 34 of IPC of Mangaluru East Police Station.

2. Case of the prosecution is that on 22.11.2015, one Nagendra along with his friends after celebrating the birthday function of one Chethan at Goldfinch Hotel at Mangaluru, there was quarrel between some youths at about 12.30 am, while the complainant and his friends went to pacify the quarrel, the petitioners assaulted the said Chethan for which, he took treatment in A.J.Hospital, Mangaluru. On the complaint made by Nagendra, the case was registered against one Nausheel Hameed and two other persons. Though, names of the petitioners were not included

either in the complaint or in the FIR, but during the course of investigation, the police arrested the petitioners though there is no specific allegation against the petitioners and their names were also included.

3. It is the case of the petitioners that they are not involved in any of the cases and they are falsely implicated in the case. They were arrested on 22.11.2015. The application filed under Section 439 of Cr.P.C., was rejected by the Trial Court on the ground that the offences committed by the petitioners are serious in nature and if the bail is granted they are likely to tamper the prosecution witnesses and hence, rejected the same. Hence, the present petitions have been filed.

4. Heard learned counsel for the petitioners as well as learned HCGP for the respondent.

5. I have carefully gone through the copy of the complaint, FIR and the order passed by the Trial Court.

6. Admittedly, the complaint was lodged by Nagendra on 22.11.2015. In the said complaint, names of the petitioners were not mentioned. In the complaint, an allegation has been made against one Nausheel Hameed. Further in the FIR also, names of the petitioners were not included. In the FIR, it was mentioned that there were other two unknown persons along with Nausheel Hameed. The petitioner in Crl.P.No.8885/2015 is a final year B.A. student at Gokarnanatheshwara College. The brother of the petitioner in Crl.P.No.8888/2015 is getting married on 1st January, 2016 and the reception is on 03.01.2016. The specific case of the petitioners is that they are not involved in any of the offences and they are falsely implicated. Further the petitioners are permanent residents of the Mangaluru city. They will abide by any

of the condition imposed by this Court while granting the bail.

7. Learned Government Advocate appearing for the respondent has not disputed the fact that the names of the petitioners were not mentioned either in the complaint or in the FIR.

8. Taking into consideration the facts of the case, I am of the opinion that it is a fit case to grant bail. Accordingly, I pass the following:

ORDER

9. The petitioners – accused are ordered to be released on bail for the offences in Crime No.244/2015 subject to the following conditions.

i) The petitioners shall execute the personal bond in a sum of Rs.50,000/- (Rupees fifty thousand only) each, with two sureties for

the likesum to the satisfaction of the Trial Court.

(ii) The petitioners shall make themselves available for interrogation by the investigation officer, as and when they are required.

(iii) The petitioners shall not directly or indirectly induce threat to any persons acquainted with the facts of the cases.

(iv) The petitioners shall attend the Court as and when they are directed.

(v) The petitioners shall not leave the limits of Mangaluru city, without the prior permission of the Court.

Sd/-
JUDGE

GH