

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 30TH DAY OF NOVEMBER 2017

BEFORE

THE HON'BLE MR. JUSTICE K. SOMASHEKAR

CRIMINAL PETITION NO.102563/2017

BETWEEN

1. Manjunath,
S/o. Palaiah, Aged 35 years,
Hindu, Occ: Agriculturist,
R/o. Hosahatti Village,
Kudligi Taluk, Ballari District.
2. Ningappa,
S/o. Mareppa, Aged 50 years,
Hindu, Occ: Agriculturist,
R/o. Kuduredevu Village,
Kudligi Taluk, Ballari District. . . Petitioners

(By Sri. Amare Gouda, Advocate)

AND:

The State of Karnataka,
Through Godekote Police Station,
Represented by
State Public Prosecutor,
High Court of Karnataka,
Bench at Dharwad. .. Respondent

(By Sri Praveen Kuppar, HCGP)

This Criminal Petition is filed under Section 438 of Cr.P.C., praying to grant anticipatory bail, in Gudekote Town Police Station, in Crime No.105/2016 (CC. No.139/2017) for the offence punishable under Sections-323, 324, 326, 504, 506 read with Section-34 of IPC.

This petition coming on for Orders this day, the court made the following:

ORDER

This petition under Section-438 of Cr.P.C., is filed by petitioners, who have been arraigned as accused Nos. 1 & 2 in crime No.105/2016 of Gudekote Police Station, registered for the offences punishable under Sections-323, 324, 326, 504, 506 read with Section-34 of IPC, seeking to enlarge them on bail, in the event of their arrest in the above crime.

2. The above case came to be registered based on the complaint lodged by Mr. Anjinappa. It is averred in the complaint that on 17.05.2016 at about 9-45 p.m, due to enmity between the petitioner and the complainant, the petitioner picked up quarrel with the complainant, abused him in filthy language and assaulted him with axe and clubs on his lips, teeth and caused grievous injuries and threatened him with dire consequences. After completion of investigation,

the police laid charge sheet against the accused for the aforesaid offences.

3. Learned counsel for the petitioners submits that the petitioners herein have been lugged in the case and they are innocent of the offences alleged against them and there is no specific overt act attributed to the petitioners. He further submits that the petitioners hail from respectable family and they had deep root in the society. He further submits that after completion of investigation, the police have already filed charge sheet against the petitioners and that they are ready and willing to abide by any of the conditions that may be imposed by this Hon'ble Court and prays for grant of anticipatory bail, by allowing the petition.

4. On the other hand, learned HCGP., vehemently submits that the charge sheet material would disclose prima facie case against the petitioners. The petitioners were absconding since from the date of registration of crime, that itself indicate that they did commit the offence alleged against them. He further submits that if they are enlarged on

bail, there is every likelihood of he tampering the prosecution evidence and threatening the prosecution witnesses and thereby, flee away from the clutches of justice and hence, he prays for dismissal of the bail petition.

5. On careful perusal of the investigation papers it is seen that the 2nd petitioner herein had lodged complainant against the complainant in the present case and the same was registered in crime No.104/2016 by the very same police for the offences punishable under Section-143, 147, 148, 341, 323, 324, 427, 448, 504, 506 read with 149 of IPC ., Hence, there was a case and counter case between the petitioners and the complainant. After completion of investigation, the respondent-police have already filed charge sheet against the petitioners. As such, the presence of the present petitioners is no more required either for custodial interrogation or for further investigation. Added to this, though the offences alleged against the petitioners are non-bailable, they are not exclusively punishable either with death or imprisonment for life. The guilt of the accused is yet to be established by the prosecution by adducing evidence after full

fledged trial. At this juncture, there is no *mens rea* attributable to the accused-petitioners. At the same time, the apprehension of the prosecution shall be cured/removed by imposing stringent conditions against the petitioner. Looking to the totality of the facts and circumstances of the case, this Court is of the considered view that without expressing any opinion on merits of the matter, the application filed by the petitioner deserves to be allowed. Hence, I proceed to pass the following:

O R D E R

The petition filed by the petitioners under Section 438 of Cr.P.C. is hereby allowed. They shall be enlarged on bail in crime No105/2016 of Gudekote Police station (CC.No.139/2017) pending on the file of the JMFC., court Kudligi, subject to the following conditions:

- (1) The petitioner shall appear before the trial Court within a period of 20 days from the date of receipt of a copy of this order and they shall execute a personal bond in a sum of Rs.50,000/- each with one surety for the likesum to the satisfaction of the trial Court.

- (2) The petitioners shall not tamper or hamper the case of prosecution witnesses.
- (3) The petitioners shall appear before the Court on all the dates of hearing without fail.
- (4) The petitioners shall not indulge in any other criminal activities henceforth.

If the petitioners violates any of the above conditions, the bail order shall stand ceased.

Sd/-
JUDGE

Vr