

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 30TH DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MRS.JUSTICE M.G. UMA

CRIMINAL PETITION No.201096/2020

BETWEEN:

Mohsin S/o Dastagir Patel
Age: 20 years, Occ: Coolie
R/o. Bhosaga
Tq: Jewargi, Dist: Kalaburagi

... Petitioner

(By Sri Chaitanyakumar Chandriki, Advocate)

AND:

1. The State of Karnataka
Through Jewargi P.S.
represented by Addl. SPP
High Court Building
Kalaburagi - 585102

2. Mahesh S/o Babu Pawar
Age: 32 years, Occ: Labourer
R/o. Kuvempu Nagar
Kalaburagi - 585102

... Respondents

(By Sri Sharanabasappa M. Patil, HCGP for R1;
R2 served)

This Criminal Petition is filed under Section 439 of Cr.P.C. praying to allow the petition and order to release the petitioner on bail in Crime No.133/2020 of Nelogi police station for the offences punishable under Sections 143, 147, 148, 323, 324, 326, 341, 307, 427, 504, 506 read with Section 149 of IPC and Section 3(1)(r), 3(2)(v) of SC/ST Act, 1989, pending on the file of the V Addl. Sessions Judge at Kalaburagi in the interest of justice and equity.

This petition coming on for Orders this day, the Court passed the following:

ORDER

The petitioner/accused has approached this Court for grant of bail under Section 439 of Code of Criminal Procedure (for short, 'Cr.P.C.') in Crime No.133/2020 of Nelogi Police Station, registered for the offences punishable under Sections 427, 506, 341, 143, 147, 504, 148, 323, 324, 307, 326 read with Section 149 of Indian Penal Code (for short 'IPC') on the basis of the first information lodged by the informant Sri Mahesh.

2. Brief facts of the case are that, the informant Sri Mahesh lodged the first information in Nelogi Police Station against accused Nos.1 to 6 and other 15 to 20 members stating that he is working in Sri Sai Finance

Agency and Leasing Finance and Mnapuram Finance, Kalaburagi as Seizer and accused No.1 had availed loan for purchasing JCB and agreed to pay monthly installment of Rs.34,900/- to Manapuram finance. He was very irregular in repayment of the loan amount and had not paid the installments for four months. In that regard, the informant contacted accused No.1 and requested him to pay the monthly installments. But, accused No.1 had abused him in filthy language and criminally intimidated with dire consequences. On 30.09.2020 at 7.00 p.m., the informant along with his friends as per instructions of his higher officers, proceeded to Jewargi to seize the vehicles in respect of which the monthly installments were not being paid. Since accused No.1 had not paid the monthly installments, they proceeded to seize the JCB. When they could not found JCB, they enquired about the same and came to know that the said vehicle is parked near a school. Accordingly, the informant along with his friends came near the school and at that time accused persons came in three motorcycles, armed with deadly weapons like,

Talwar, club and stones and they abused the informant and his friends with an intention to cause their death, assaulted them with deadly weapons and caused injuries. The informant and his friends have sustained injuries. In the mean time, 15 to 20 persons came there, forming themselves into an unlawful assembly, armed with similar deadly weapons and damaged the Bolero vehicle in which the informant had came to the spot. Immediately, the informant and other injured were shifted to Dhanwantari Hospital, Kalaburagi. Therefore, the informant requested the police to register the case and to initiate legal action against the accused. Accordingly, the police registered the case and took up investigation.

3. Heard Sri Chaitanyakumar Chandriki, learned counsel for the petitioner and Sri Sharanabasappa M. Patil, learned High Court Government Pleader for the respondent – State. Perused the materials on record.

4. Learned counsel for the petitioner submitted that the petitioner is not named in the FIR. Subsequently,

this petitioner and another were apprehended on 02.10.2020. There are absolutely no basis for apprehending this petition. The so called injured have not suffered any grievous injuries. This petitioner is not required for further investigation. Therefore, his detention may amount to pre trial punishment. The petitioner is the permanent resident of the address mentioned in the cause title of the petition and he is ready and willing to abide by any of the conditions that would be imposed by this Court. Hence, he prays for allowing the petition.

5. Per contra, learned High Court Government Pleader opposing the petition submitted that serious allegations are made against the petitioner and other accused for having committed the offences. The investigation is still at the stage initial stage. Other accused are still at large. Under such circumstances, this petitioner is not entitled for grant of bail and prays for dismissal of the petition.

6. Perused the materials on record in the light of the rival submissions. The allegations made against the petitioner/accused are serious in nature. However, the present petitioner is not named in the FIR but, there is reference of 15 - 20 other persons who were armed with deadly weapons and assaulted the informant and others. However, the wound certificate relating to Ashok, who is one of the injured discloses that he has sustained only three simple injuries. The learned counsel for the petitioner submitted that two other injured have also sustained only simple injuries. This fact is not denied by the learned High Court Government Pleader. Admittedly, the petitioner is not required for custodial interrogation. Therefore, I am of the opinion that the petitioner may be granted bail subject to conditions which will take care of apprehension expressed by the learned High Court Government Pleader. Hence, I proceed to pass the following:

ORDER

The petition is allowed.

The Petitioner/accused No.2 is ordered to be enlarged on bail in Crime No.133/2020 of Nelogi Police Station on obtaining the bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the likesum, to the satisfaction of the jurisdictional Court, subject to the following conditions:

- a). The petitioner shall not commit similar offences.
- b). The petitioner shall not threaten or tamper with the prosecution witnesses.
- c). The petitioner shall appear before the Court as and when required.

**Sd/-
JUDGE**

Srt