

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL 2020

BEFORE

THE HON'BLE MRS. JUSTICE K.S.MUDAGAL

CRIMINAL PETITION No.2171/2020

BETWEEN:

SHRI SHANTAPPA KUDALAGI
S/O. CHANDRAMAPPA KUDALAGI
AGED ABOUT 48 YEARS
OCC: ADVOCATE AND ZP MEMBER
R/AT KUDALAGI VILLAGE
KARUNESHWAR NAGAR
JEWARGI TALUK
KALABURAGI DISTRICT- 585 310
...PETITIONER

(BY SRI M.S.SHYAMSUNDAR, ADVOCATE)

AND:

THE STATE OF KARNATAKA BY
FARHATABAD POLICE STATION
M.B.NAGAR, KALABURAGI
REPRESENTED BY HCGP
HIGH COURT OF KARNATAKA
BENGALURU - 560 001 ... RESPONDENT

(BY SRI THEJESH.P. HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON BAIL IN SPL.C.C.NO.14/2020 OF RESPONDENT POLICE STATION IN CRIME NO.146/2019 OF FARHATABAD POLICE STATION, KALABURAGI REGISTERED FOR THE OFFENCE PUNISHABLE UNDER SECTION 143, 147, 148, 427, 120B, 109, 307 AND 302 OF IPC READ WITH SECTION 149 OF IPC AND SECTION 3(1)(r), 3(2)(v) OF THE SCHEDULED CASTE AND THE SCHEDULED TRIBE (PREVENTION OF ATROCITIES) ACT AND SECTION 25 OF THE ARMS ACT.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THIS DAY, THE COURT **THROUGH VIDEO CONFERENCE** MADE THE FOLLOWING:

ORDER

Farhatabad police have charge sheeted the petitioner in Crime No.146/2019 for the offences punishable under 143, 147, 148, 427, 120B, 109, 307 and 302 read with Section 149 of IPC, Section 3(1)(r), 3(2)(v) of the Scheduled Caste and the Scheduled Tribe (Prevention Of Atrocities) Act and Section 25 of the Arms Act on the basis of complaint of one Mahantappa.

2. It is alleged that due to political rivalry and previous ill-will, the petitioner along with other accused conspired to commit murder of Shivalingappa Bhavikatti, the brother of the complainant. In execution of such conspiracy, on 04.11.2019, between 8.30 p.m. to 9.30 p.m., when complainant and Shivalingappa were traveling in their car bearing No.KA-32-N-7443, accused Nos.2 to 6, 9 and 11 intercepted them in car No.KA-32-N-9213 and hit the victim's vehicle. It is further alleged that when the vehicle of the deceased fell on the road

side, accused Nos.2 to 6 and 9 assaulted the deceased with deadly weapons and committed his murder.

3. As per the charge sheet records itself, the petitioner was not actual assailant. It is alleged that he engaged accused Nos.2 to 6, 9 and 11 to commit the murder and he was the master mind. Statement of CW.34 seems to be the only material in support of conspiracy theory.

4. CW.1 who implicated the petitioner himself gives inconsistent further statement regarding the petitioner. Under the circumstances, it may not be just to subject the petitioner for pre-trial conviction and sentence. Therefore, the petition is allowed.

The petitioner is granted bail in Crime No.146/2019 of Farhatabad police station, Kalaburagi, subject to the following conditions:

- (i) Petitioner shall execute personal bond in a sum of Rs.1,00,000/-(Rupees One Lakh only) with two sureties in the like sum to the satisfaction of the trial Court.

- (ii) Petitioner shall appear before the Court as and when required for the trial.
- (iii) Petitioner shall not tamper the prosecution witnesses in any manner.
- (iv) Petitioner shall not indulge in any criminal activities. &
- (v) Petitioner shall not visit Jewargi Taluk till charges are framed.

Registry shall communicate operative portion of the order to the jurisdictional Court.

**Sd/-
JUDGE**

KSR