

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2020

BEFORE

THE HON'BLE MR.JUSTICE B.A. PATIL

CRIMINAL PETITION NO.5524 OF 2020

BETWEEN:

1. Kumara N. @ Halu Kumar
S/o. Late Nanjunda Shetty
Aged 42 years
R/at No.23/261, Uppar Street
Ward No.23
Chamarajnagar Town – 571 111.
2. Nanduna @ Mohan Kumar
S/o. Mahadevaswamy
Aged 24 years
R/at 16/278, 1st Cross
Railway Extension
Uppar Street
Chamarajnagar Town – 571 111.

... Petitioners

(By Sri. Y.S.Shiva Prasad, Advocate)

AND:

1. State of Karnataka by
Geologist Department of
Mines and Geology
Represented by SPP
High Court Buildings
Bengaluru – 560 001.
2. Siddaraju
S/o. Late Rachaiah

Ward No.9, Chamarajnagar
Taluk and District
Chamarajnagar Town – 571 111.

... Respondents

(By Sri R.D. Renukaradhya, HCGP for R1)

This Criminal Petition is filed under Section 438 of Cr.P.C., praying to enlarge the petitioners on bail in the event of their arrest in Cr.No.78/2020 of Chamarajanagar Town P.S., Chamarajanagar for the offences punishable under Sections 504, 332, 506, 353 read with Section 34 of IPC and Section 3(1)(r), 3(1)(s) of SC/ST (POA) Act.

This Criminal Petition coming on for **Orders** through video conference this day, the Court made the following:

ORDER

The present petition has been filed by petitioners/accused Nos.2 and 3 under Section 438 of Cr.P.C., to release them on anticipatory bail in Crime No.78/2020 of Chamarajanagar Police Station (pending on the file of Principal District and Sessions Judge, Chamarajanagar) for the offences punishable under Sections 332, 504, 506, 353 read with Section 34 of IPC and also under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. I have heard the learned counsel Sri. Y.S. Shiva Prasad for petitioners/accused Nos.2 and 3 virtually and learned HCGP Sri. R.D. Renukaradhya for the respondent No.1 – State. Learned HCGP submits that the notice issued to the complainant has been served but there is no representation on behalf of the complainant. Registry is directed to print the name of the complainant for having served.

3. The gist of the case of the complainant in brief is that complainant is working as a water man and on 01.09.2020 at about 6.00 a.m., when he was releasing the water, accused No.1 – Mahadevaswamy rake up a commotion with him saying that why did you break the pipe and abused him by taking the name of the caste. The persons belonging to the scheduled caste become intolerable and rest of the accused were also joined the company of accused No.1 and they threw tea on him. Though he has been frequently delivering the

duty for supply of the water to the public and however, the alleged incident has been taken place. On the basis of the complaint, a case has been registered.

4. It is the submission of the learned counsel for petitioners/accused Nos.2 and 3 that the alleged offences are not punishable with death or imprisonment for life and the contents of the complaint itself clearly goes to show that the allegations have been made as against accused No.1 and no serious overt acts have been alleged as against petitioners/accused Nos.2 and 3. It is his further submission that petitioners/accused Nos.2 and 3 have not even abused the complainant by taking the name of the caste. The allegations in the complaint is also very vague and no specific caste name has been taken to insult the complainant or touch his caste. He further submitted that petitioners/accused Nos.2 and 3 are ready to abide by any of the conditions that may be imposed by this Court and they are ready

to offer the sureties. On these grounds, he prays to allow the petition and to release petitioners/accused Nos.2 and 3 on bail.

5. Though learned HCGP seriously contested and contended that petitioners/accused Nos.2 and 3 being the members of the said assembly, they have also participated in the incident. But on perusal of the contents of the complaint, it indicates that the serious allegations have been made as against accused No.1 and even these accused persons have not abused the complainant by taking the name of the caste. The alleged offences are not punishable with death or imprisonment for life. Under such circumstances, I am of the considered opinion that by imposing some stringent conditions, if petitioners/accused Nos.2 and 3 are ordered to be released on anticipatory bail, it is going to meet the ends of justice. In that light, the petition is **allowed**.

6. Petitioners/accused Nos.2 and 3 are ordered to be enlarged on anticipatory bail in the event of their arrest in Crime No.78/2020 of Chamarajanagar Police Station (pending on the file of Principal District and Sessions Judge, Chamarajanagar) for the offences punishable under Sections 332, 504, 506, 353 read with Section 34 of IPC and also under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, subject to the following conditions:

- i) Petitioners/accused Nos.2 and 3 shall execute a personal bond for a sum of Rs.2,00,000/-(Rupees Two Lakhs Only) each with two sureties for the likesum to the satisfaction of the Investigating Officer.
- ii) They shall surrender before the Investigating Officer within 20 days from today, failing which this order automatically stands cancelled.

- iii) They shall not tamper with the prosecution witnesses directly or indirectly.
- iv) They shall appear before the Investigating Officer as and when required and co-operate for investigation.
- v) They shall mark their attendance before the Investigating Officer once in 15 days in between 10.00 a.m. and 5.00 p.m. till the charge sheet is filed.
- vi) They shall not leave the jurisdiction of the Court without prior permission.
- vii) If they violate any one of the conditions, bail is liable to be cancelled.

**Sd/-
JUDGE**

SJK