



CRL.P No. 102660 of 2022

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 30TH DAY OF SEPTEMBER 2022

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL PETITION NO. 102660 OF 2022

BETWEEN:

SRI. SHAMAPRASAD KUTTAPPAN
AGE. 55 YEARS, OCC. AGRICULTURIST,
R/O. HALLUR ONI, MUNDAGOD,
TQ. MUNDAGOD,
DIST. UTTARA KANANDA 581349

...PETITIONER

(BY SRI. K S PATIL, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY POLICE SUB INSPECTOR,
MUNDAGOD POLICE STATION,
MUNDAGOD, DIST. UK,
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA,
DHARWAD 580001

...RESPONDENT

(BY SRI. PRASHANTH V. MOGALI, HCGP)



THIS CRIMINAL PETITION IS FILED U/S 438 OF CR.P.C.,
SEEKING TO DIRECT THE RESPONDENT POLICE TO RELEASE THE
PETITIONER/ACCUSED ON BAIL IN THE EVENT OF HIS ARREST BY
GRANTING ANTICIPATORY BAIL IN MUNDAGOD P.S. CRIME
NO.155/2022 REGISTERED FOR THE OFFENCES PUNISHABLE U/S
341, 307, 326, 504, 506 OF IPC, PENDING ON THE FILE OF CIVIL
JUDGE (JR.DVN) AND JMFC, MUNDAGOD.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THIS
DAY, THE COURT MADE THE FOLLOWING:



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ORDER

This petition is filed by the sole accused under Section 438 of The Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Cr.P.C.', for brevity) seeking anticipatory bail in Mundagod Police Station Crime No.155/2022 registered for the offences punishable under Sections 341, 307, 326, 504 and 506 of the Indian Penal Code (hereinafter referred to as 'IPC', for brevity).

2. The case of the prosecution is that, Smt.Radhamani has filed complaint stating that one Smt.Indira, wife of this petitioner/accused, is her sister. The injured and the accused are co-brothers. Their houses are situated abutting to each other. In between their houses, about 14 feet open space is present. The said open space is the disputed property between this petitioner and the complainant and there are civil litigations pending before the Mundagod Civil Court since the year 2020



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and the Court has granted injunction in favour of the complainant in respect of the said property. It is further stated that, on 19.08.2022 at about 10:00am, the injured-Diwakaran was making preparation to construct a compound wall and engaged labours and the complainant was performing pooja inside and on hearing the loud noise and galata, the complainant came out and saw the accused holding a steel bar used for construction uprooting the same from the ground and the accused scolded the injured in filthy language. Upon questioning by the injured, the petitioner/accused assaulted the injured with the steel bar on his head. On seeing the same, the complainant intervened and on such intervention, the accused threatened her to take her life and scolded in filthy language. The labours, who were present on the spot, pacified the quarrel. Thereafterwards, the injured was taken to the Civil Hospital, Mundagod, and thereafter, the complainant filed the complaint which came to be



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registered in Mundagod Police Station Crime No.155/2022 for the aforesaid offences. The petitioner apprehending his arrest, filed Crl.Misc.No.5214/2022 seeking anticipatory bail and the same came to be rejected by the learned I Additional District and Sessions Judge, U.K., Karwar sitting at Sirsi by order dated 06.09.2022. Therefore, the petitioner is before this Court seeking anticipatory bail.

3. Heard the arguments of the learned counsel appearing for the petitioner and the learned High Court Government Pleader for the respondent-State.

4. Learned counsel for the petitioner would contend that the petitioner's wife and the complainant are sisters and the petitioner and the injured are co-brothers. There is a civil dispute with regard to the open space situated in between the houses of the petitioner and the injured and there



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are civil suits pending between them. The alleged incident occurred on 19.08.2022 at 10:00am and the complaint came to be filed at 6:30pm and there is a delay in filing the complaint. The injured has been treated as an out patient and the injury sustained by him is stated to be simple in nature. Therefore, the alleged offences under Sections 326 and 307 of IPC are not attracted. It is his further submission that, the offences alleged against the petitioner are not against the society and it is out come of the property dispute. The petitioner is having a son aged 18 years who is mentally retarded who requires petitioner's care. The petitioner is ready to co-operate with the police in the investigation. With this, he prayed to allow the petition.

5. *Per contra*, learned High Court Government Pleader would contend that investigation is still in progress. The investigating officer has obtained wound certificate which reveals that the injured has sustained lacerated wound on the right side of his



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forehead measuring 5x1x2 cms and it is opined that it is simple in nature. It is his further submission that the petitioner is involved in 4 criminal cases registered in Mundagod police station. If the petitioner is granted anticipatory bail, he will hamper the investigation and tamper the prosecution witnesses and flee from justice. With this, he prayed to reject the petition.

6. Having regard to the submission made by the learned counsel for the petitioner and the learned High Court Government Pleader, this Court has gone through the averments of the complaint, FIR and the order passed by the Sessions Court and the investigation papers facilitated by the Government Pleader.

7. As per the averments of the complaint, there is a civil dispute between the complainant and the wife of the accused and there are civil suits pending between them. The said civil dispute is in



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respect of the open space situated in between the houses of the petitioner and the injured. The accusation against this petitioner is that, he assaulted with steel bar on the head of the injured. The wound certificate reveal that, the injured has sustained lacerated wound measuring 5x1x2cms on the right side of his forehead and it is opined to be simple in nature. The injured has been treated as an out patient. There is no danger to the life of the injured. The four criminal cases registered against this petitioner are outcome of the said civil dispute between the petitioner and the injured. The petitioner has undertaken to co-operate with the police in the investigation.

8. The apprehension of the prosecution is that, if the petitioner is granted anticipatory bail, he will hamper the investigation and tamper the prosecution witnesses, can be met with by imposing stringent conditions.



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9. In the facts and circumstances of the case and submission of the counsel, this Court is of the view that there are valid grounds for granting anticipatory bail subject to certain terms and conditions. Hence, I proceed to pass the following:

ORDER

The petition filed under Section 438 of Cr.P.C. is allowed. Consequently, the petitioner/accused is ordered to be released on bail in the event of his arrest in Crime No.155/2022 of Mundagod Police Station, subject to the following conditions:

- i. The petitioner/accused shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees onelakh only) with one surety for the likesum to the satisfaction of the Investigating Officer.
- ii. The petitioner/accused shall voluntarily appear before the Investigating Officer within three weeks from this day and execute bail bond and furnish surety.



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- iii. The petitioner/accused shall remain present before the police station concerned on every Sunday between 10:00am and 2:00pm and mark his presence for a period of two months or till filing of the final report whichever is earlier.
- iv. The petitioner/accused shall co-operate in the investigation and make himself available for interrogation whenever required
- v. The petitioner/accused shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
- vi. The petitioner/accused shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

**Sd/-
JUDGE**

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