



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF MAY, 2023

BEFORE

THE HON'BLE MR JUSTICE MOHAMMAD NAWAZ

CRIMINAL PETITION NO. 4052 OF 2023

BETWEEN:

1. FAYAZ CHOWTI
S/O MOTHERSAB CHOWTI,
AGED ABOUT 45 YEARS,
ROSHAN RECONDITION GARGE
AND SARIKA SEVA TRUST,
R/AT BASAVESHWARA NAGAR,
NEAR RTO OFFICE, SIRSI,
UTTAR KANNADA DISTRICT
PIN. 581 401. (A11)
(SINCE 04-04-2023 IN JUDICIAL CUSTODY)
2. SHAKIL AHAMMAD
S/O SHABBIR ALI,
AGED ABOUT 25 YEARS,
AMBULANCE DRIVER
R/AT VIDYA NAGARA, 4TH CROSS,
NEAR RAJADHANI FINANCE,
SIRSI, UTTAR KANNADA DISTRICT
PIN 581 401.(A12)
(SINCE 04-04-2023 IN JUDICIAL CUSTODY)

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by PAVITHRA N
Location: High
Court Of
Karnataka

...PETITIONERS

(BY SRI: K.B.K SWAMY, ADVOCATE)

AND:

STATE OF KARNATAKA
BY NYAMATHI POLICE STATION
DAVANAGERE.
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA,
BENGALURU - 560 001.

...RESPONDENT

(BY SRI: RENUKARADHYA, HCGP)



THIS CRIMINAL PETITION IS FILED U/S 439 CR.PC PRAYING TO ENLARGE THE PETITIONER/S ON BAIL IN THE CR.NO.46/2023 REGISTERED IN NYAMATHI POLICE STATION, DAVANAGERE DISTRICT FOR THE OFFENCE P/U/S 143, 147, 148, 324, 302, 307 R/W 149 OF IPC ON THE FILE OF ADDITIONAL CIVIL JUDGE (JR.DN.) AND JMFC COURT HONNALI, DAVANAGERE.

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

ORDER

This petition is filed under Section 439 of Cr.P.C., praying to enlarge the petitioners/accused Nos.11 and 12 on bail in Crime No.46/2023 of Nyamathi Police Station, registered for the offence punishable under Sections 143, 147, 148, 302, 324, 307, 149 of IPC, now pending on the file of the learned Additional Civil Judge (Jr. Dn) and JMFC Court, Honnali, Davanagere.

2. Heard the learned counsel for petitioners and the learned High Court Government Pleader for respondent- State and perused the materials on record.

3. On the basis of a complaint lodged by the father of the deceased, the aforesaid case was registered against 6 to 7 unknown persons. It is alleged by the



complainant that on 15.03.2023, his son by name Anjaneya and one Madhu, S/o. Narayanappa had been to Shivamogga to attend a criminal case and at about 4.00 p.m., he was informed by the villagers that about 6 to 7 persons have committed murder of his son by assaulting him with long etc. He immediately went to the spot and found his son lying dead with injuries all over his body. Further, Madhu was also seriously injured and he was taken to Honnali government hospital, wherein he was given first aid and then, shifted to Mcgann hospital, Shivamogga.

4. A perusal of the complaint averments would reveal that the complainant's son Anjaneya, his friend Madhu and others were earlier involved in a murder case and they were arrested in the said case. About a month prior, they were released on bail. On the date of incident, they had gone to attend the Court proceedings at Shivamogga on a motor bike bearing registration No.KA-02/JP-1418 and about 6 to 7 accused persons followed



them in a jeep and hit their jeep against the motor bike and assaulted deceased- Anjaneya and the injured- Madhu with long etc.

5. In the remand application dated 04.04.2023, the petitioners are arraigned as accused Nos.11 and 12 respectively. The allegations against them are that after the incident, the assailants escaped from the scene of offence in an ambulance belonging to accused No.11, which was driven by accused No.12.

6. It is not the case of prosecution that the petitioners were either present at the scene of occurrence or they have assaulted the deceased with any weapon. Admittedly, FIR is registered against 6 to 7 unknown persons. It is not alleged in the FIR that after the incident, the accused escaped in an ambulance. Whether these petitioners have facilitated the accused to escape from the scene of occurrence or whether they have actively participated in the crime is a matter to be



established in due course. The petitioners are already arrested and interrogated. Considering the overtacts attributed against the petitioners, imposing suitable conditions, they can be enlarged on bail. Accordingly, I proceed to pass the following;

ORDER

Petition is ***allowed***.

The petitioners – accused Nos.11 and 12 shall be enlarged on bail in Crime No.46/2023 of Nyamathi Police Station, pending on the file of the learned Additional Civil Judge (Jr.Dn) and JMFC Court, Honnali, Davanagere, subject to following conditions:

- (i) *Petitioners shall execute a personal bond in a sum of 1,00,000/- (Rupees One Lakh only) each with two sureties for the like sum to the satisfaction of the jurisdictional Court.*
- (ii) *Petitioners shall furnish proof of their residential address and shall inform the Court if there is any change in the address.*



- (iii) Petitioners shall not tamper with the prosecution witnesses/evidence either directly or indirectly.*
- (iv) Petitioners shall not leave the jurisdiction of the trial Court without prior permission of the learned Sessions Judge.*
- (v) Petitioners shall regularly appear before the Trial Court on all dates of hearing.*
- (vi) Petitioners shall not involve in any criminal activities.*

If any of the above conditions are violated,
prosecution is at liberty to seek cancellation of bail.

**Sd/-
JUDGE**

PN