



**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH**

**DATED THIS THE 31<sup>ST</sup> DAY OF JANUARY, 2024**

**BEFORE**

**THE HON'BLE MR JUSTICE S.VISHWAJITH SHETTY**

**CRIMINAL PETITION NO. 100172 OF 2024 (439)**

**BETWEEN:**

MALLASARJA @ MALLAPPA  
S/O. SHANKREPPA KHANAGANVI,  
AGE: 60 YEARS, OCC. AGRICULTURE,  
R/O. TIGADI VILLAGE, TQ. BAILHONGAL,  
DIST. BELAGAVI-591102.

...PETITIONER

(BY SRI JAGADISH PATIL, ADVOCATE)

**AND:**

THE STATE OF KARNATAKA  
THROUGH BAILHONGAL POLICE STATION,  
R/BY ITS STATE PUBLIC PROSECUTOR,  
HIGH COURT OF KARNATAKA BENCH,  
AT. DHARWAD-08.

...RESPONDENT

(BY SMT. GIRIJA S. HIREMATH., HCGP)



THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.,  
SEEKING TO ALLOW THE PETITION AND THE PETITIONER /  
ACCUSED NO.3 BE ENLARGED ON BAIL IN CONNECTION WITH  
BAILHONGAL P.S. FIR CRIME NO.149/2023 DATED 04.06.2023  
FOR OFFENCES PUNISHABLE U/S 302, 307, 326, 504, 506,  
R/W 34 OF IPC WITH RESPECT TO THE PETITIONER/ACCUSED  
NO.3.

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



**ORDER**

1. Accused No.3 in SC No.135/2023 pending before the Court of the X Addl.Sessions Judge, Belagavi arising out of Crime No.149/2023 registered by Bailhongal police station, Belagvi district for the offences punishable under Sections 302, 307, 326, 504, 506 read with Section 34 of IPC, is before this Court under Section 439 of Cr.P.C.

2. Heard the learned counsel for the parties.

3. FIR in Crime No.149/2023 was registered by Bailhongal police station, Belagavi district against Shankreppa and three others on the complaint of Smt.Kasturevva W/o Sadashiva Khangarvi (CW14). During the course of investigation in the case, petitioner was arrested on 05.06.2023. Investigation in the case is completed and charge sheet has been filed totally against four accused persons. Accused Nos.1 and 2 are the sons of petitioner and accused No.4 is his wife. Petitioner filed bail application before the Court of the X Addl.Sessions Judge,



Belagavi in Crl.Misc.No.1451/2023, which was dismissed on 10.01.2024. Therefore he is before this Court.

4. Learned counsel for the petitioner submits that the incident in question had taken place within the family members who had a property dispute between themselves. The allegation of murdering Suresh, who is the brother of the petitioner herein is only as against accused No.1. CW14-Sadashiva has suffered major injuries as a result of assault made by accused No.1. Petitioner is aged about 60 years and he is an agriculturist by avocation. His entire family members have been implicated in the case. Accordingly, he prays to allow the petition.

5. Per contra, learned High Court Government Pleader has opposed the bail application. She submits that complainant as well as CW14, are the eyewitnesses to the incident in question. They have spoken about the overt act of the accused persons. Petitioner has assaulted CW14



with a spade and has caused grievous injuries. Accordingly, she prays to dismiss the petition.

6. Deceased Suresh, CW14, CW17, CW19 and the petitioner are direct brothers. It appears that they had a dispute amongst themselves with regard to partition of their family property. Deceased Suresh and his other brothers had requested the petitioner herein to effect partition in respect of certain items of land which he was enjoying exclusively. It is in this background, the incident in question had taken place when the complainant along with CW14 and deceased Suresh, had objected the accused persons ploughing the disputed land. In the incident that had taken place on 04.06.2023 at about 1.30 p.m., accused No.1 allegedly had assaulted deceased Suresh with a sickle on the vital parts of his body and as a result of the said assault, Suresh had collapsed to the ground and succumbed to the injury on the spot. Thereafter accused No.1 had also allegedly assaulted CW14 on his forehead and also on his right hand and as a



result, two fingers of CW14-Sadashiva were amputated. It is further alleged that accused Nos.2 and 3 assaulted CW14-Sadashiva with a weapon which they were holding. The wound certificate of the injured CW14 would reflect that he had suffered multiple injuries on his body and most of them are chop wounds which are corresponding to the assault made by accused No.1. The injury on the face of CW14 is also corresponding to the assault made by accused No.1 on his forehead. The other injuries found on the body of CW14 are not on the vital parts of the body. Accused Nos.1 and 2 are in custody. Accused No.4 has been granted regular bail by this Court in Crl.P.No.103002/2023 disposed of on 27.11.2023. The petitioner is in custody from 05.06.2023. Investigation in the case is completed and charge sheet has been filed. He is aged about 60 years and he is an agriculturist by avocation. He is required to take care of his wife and also his agricultural property. Undisputedly he has no criminal antecedents. Under these circumstances, I am of the opinion that the prayer made by the petitioner for grant of



regular bail is required to be answered in the affirmative.

Accordingly, the following:

**ORDER**

Petition is allowed. The petitioner is directed to be enlarged on bail in SC No.135/2023 pending before the Court of the X Addl.Sessions Judge, Belagavi arising out of Crime No.149/2023 registered by Bailhongal police station, Belagvi district for the offences punishable under Sections 302, 307, 326, 504, 506 read with Section 34 of IPC, subject to the following conditions:

- i. The petitioner shall execute personal bond for a sum of Rs.1,00,000/- with 2 sureties for the likesum to the satisfaction of the jurisdictional Court;
- ii. The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;
- iii. The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;
- iv. The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said



Court until the case registered against him is disposed off.

**Sd/-**  
**JUDGE**

KGK  
List No.: 1 SI No.: 25