



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 31ST DAY OF JULY 2024
BEFORE
THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR
CRIMINAL PETITION NO. 101176 OF 2024
C/W CRIMINAL PETITION NO. 102892 OF 2023

IN CRL. P NO.101176/2024
BETWEEN:

SHRI. MANJUNATH S/O. LAKSHMAN PUTANI
ALIAS MANJU, AGE: 25 YEARS,
OCC: PRIVATE JOB, R/O: CHEMPA HOSUR,
TAL: GADHAHINGLAJ, DIST: KOLHAPUR,
PRESENTLY RESIDING AT HOSAPETE VILLAGE,
TAL: HUKKERI, DIST: BELAGAVI - 591309.

...PETITIONER

(BY SRI. JAGADISH PATIL, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH YAMAKANMARDI POLICE STATION,
R/BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENCH AT DHARWAD - 580001.

...RESPONDENT

(BY SMT. GIRIJA S. HIREMATH, HCGP)

YASHAVANT
NARAYANKAR



Location: HIGH
COURT OF
KARNATAKA

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.,
SEEKING TO ALLOW THE PETITION AND THE PETITIONER/ACCUSED
NO.8 MAY KINDLY BE ENLARGED ON BAIL IN S.C.5107/2022
PENDING BEFORE VII ADDL. SESSIONS JUDGE, BELAGAVI SITTING
AT CHIKKODI IN CONNECTION WITH YAMAKANMARDI POLICE
STATION IN CRIME NO.185/2022 FOR OFFENCE PUNISHABLE U/S
143, 147, 148, 120(B), 302, 504, 506 AND 201 R/W 149 OF IPC AND
U/S 25(1A) OF THE INDIAN ARMS ACT.



IN CRL. P NO.102892/2024

BETWEEN:

1. KEMPANNA S/O. ARJUN NESARAGI,
AGE: 26 YEARS, OCC: AGRICULTURE,
 2. YALLAPPA S/O. APPAYYA SHIVAPUR,
AGE: 33 YEARS, OCC: AGRICULTURE,
- (BOTH ARE R/O: HOSPATE, TQ: HUKKERI,
DIST: BELAGAVI – 591309).

...PETITIONERS

(BY SRI. JAGADISH PATIL, ADVOCATE)

AND:

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

...RESPONDENT

(BY SMT. GIRIJA S. HIEMATH, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.P.C.,
SEEKING TO ALLOW THE PETITION AND THE PETITIONER/ACCUSED
NO.2 AND 5 MAY KINDLY BE ENLARGED ON BAIL IN CONNECTION
WITH YAMAKANMARDI POLICE STATION IN CRIME NO.185/2022 FOR
OFFENCES 143, 147, 148, 120-B, 302, 504, 506 AND 201 R/W 149
OF IPC AND SECTION 25(1A) OF THE INDIAN ARMS ACT., ON THE
FILE OF VII ADDL. DISTRICT & SESSIONS JUDGE, BELAGAVI
SITTING AT CHIKKODI.

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

CORAM: THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR



ORAL ORDER

Criminal Petition No.101176/2024 is filed by accused No.8 and Criminal Petition No.102892/2023 is filed by accused Nos.2 and 5 under Section 439 of the Code of Criminal Procedure seeking bail in Crime No.185/2022 of Yamakanamaradi Police Station registered for the offences punishable under Sections 143, 147, 148, 109, 120B, 302, 504 and 506 read with Section 149 of the Indian Penal Code and Section 25(1A) of the Indian Arms Act.

2. The case of prosecutions is that, accused No.1-Basavaraj had ran away with the daughter of one Irappa Chougala, who is the chairman of Basaveshwar Bank and the said accused No.1 doubted the complainant's husband that he was giving information about the daughter of chairman to him. In another incident, the son of accused



No.1 got hit by a ball and therefore, there was a fight with the complainant's husband and an elder person by name Kallappa Siddappa Bhujamgol intervened and pacified the quarrel. In spite of the said aspect, accused No.1 is having grudge against the husband of complainant. It is further stated that about 25 days prior to filing of the complaint, mother-in-law of complainant was roaming in front of their house, the said accused No.1-Basavaraj came from the back side in a very speed manner and stopped vehicle right in front of the mother-in-law and when she asked why he was doing so, the said accused No.1-Basavaraj and 4 others got down and quarreled with the complainant's husband. There are cases registered of such a kind in the Yamakanmardi police station. In this background with that grudge, accused No.1 with an intention to kill the husband of the complainant namely Parashuram along with accused Nos.2, 5, 8, 9 and 10 who were working in the finance of



accused No.1 to whom accused No.1 used to provide alcohol and food conspired them to kill the deceased-Parashuram. Accused No.1 went along with accused Nos.2 and 5 to accused No.11 and asked him to manufacture two talwars and got those two talwars and kept in his eco sport car No.KA-22/MA-5280 and also kept chilly powder. That on 16.07.2022 all the accused in the premises of Shri. Mahatma Phule ITI College, Hidakal during night hours planned to kill the deceased when he will travel to Hanuman Temple to Hidakal Dam on every Saturday by dashing with car to his motorcycle. Accused No.1 gave his eco sport car No.KA-22/MA-5280 to accused Nos.2, 5 and 8 on 15.07.2022 in the night and they on 16.07.2022 in the morning keep watching near Hanuman Temple, Hidakal Dam and at that time accused No.1 was in his friend's car bearing registration No.KA-22/MC-5056 and standing near Urdu School. At that time accused No.9 intimated accused Nos.2, 5 and 8



regarding the deceased's movements on his motorcycle from Hosapete Agasi and at that time accused No.2 drove eco sport car No.KA-22/MA-5280 and the deceased-Parashuram coming on his motorcycle bearing registration No.KA-49/L-796 near Urdu School at 10.30 a.m. dashed it from front side which caused injury to the deceased's leg and he fell down. At that time accused Nos.2 and 8 assaulted him with talwars and abused him. At that time accused No.5 abusing the deceased kicked him and the deceased by joining his hand prays not to assault him. At that time, they assaulted on his hands, head, face and killed him. Accused No.1 who was watching the same at distance took accused No.5 in the car brought by him bearing registration No.KA-22/MC-5056 and accused No.9 took accused Nos.2 and 8 on motorcycle bearing registration No.KA-22/HJ-777 and gave threat to CW-12 to finish him, if he does something and accused Nos.1 and 5 threw their



phones in Hidakal river and committed the alleged offences. The petitioners/accused Nos.2, 5 and 8, who are in judicial custody, have filed petitions seeking bail before the Sessions Court and the same came to be rejected and therefore they are before this Court seeking bail.

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

4. Learned counsel for the petitioners would contend that the complainant is not an eyewitness to the incident and she has narrated the averments of complaint as stated to her by one Mahantesh Maruti Ramagonatti (CW-7). It is his further submission that the version of CW.1 stated in the complaint is different than the statement of CW.7, who is stated to be one of the eyewitnesses. He



contends that accused Nos.1, 9, 10 and 11 have been granted bail by this Court and therefore the petitioners are also entitled for grant of bail on the ground of parity. He contends that the said accused persons who are on bail have not tampered the prosecution witnesses. He contends that the petitioners/accused Nos.2, 5 and 8 are in judicial custody since last two years and there is no progress in the case registered against them and is now posted for hearing before charge. On these grounds, he prayed to allow the petitions and grant bail to accused Nos.2, 5 and 8.

5. Per contra, learned High Court Government Pleader would contend that CWs.7 to 11 are eyewitnesses to the incident who have stated specifically regarding the overt acts of the petitioners i.e., accused Nos.2, 5 and 8. The petitioners/accused Nos.2, 5 and 8 in conspiracy with accused No.1, went to the spot and they



assaulted with chopper and caused injuries to the deceased who succumbed to the injuries on the spot. The postmortem report indicate that deceased sustained 14 injuries and cause of death is, due to injuries sustained. She contends that accused No.8 is also involved in commission of a murder in Gadinglaj Police Station Crime No.81/2019 and he is having criminal antecedents. If the petitioners are granted bail, there is threat to the prosecution witnesses. With this she prayed to dismiss the petitions.

6. Having heard the learned counsel, the Court has perused the charge-sheet records. Accused Nos.1, 9, 10 and 11 who have been granted bail are not accused of any overt act of assaulting the deceased. On perusal of column No.17 of the charge sheet and also the statement of CWs.7 to 11, the overt act alleged against the petitioners/accused Nos.2, 5 and 8 is assaulting



the deceased with the weapons. Therefore, when there is specific overt act alleged against these petitioners, they are not entitled for grant of bail on the ground of parity. Accused Nos.2 and 8 have assaulted the deceased with chopper and accused No.5 has kicked the deceased. Deceased, who had sustained 14 injuries, died on the spot. The Doctor, who conducted postmortem examination over the dead body of the deceased, has opined that cause of death is, as a result of multiple chop wounds on head and neck sustained by the deceased. Serious overt acts are alleged against the petitioners/accused Nos.2, 5 and 8. Merely because the petitioners are in custody since last two years, is not a ground for grant of bail since the offences alleged against them are punishable with death or imprisonment for life. Apart from that, accused No.8 is also involved in commission of an offence under Section 302 of IPC in Gadinglaj Police Station Crime No.81/2019.



Hence, the petitioners/accused No.2, 5 and 8 are not entitled for grant of bail.

Hence, both the petitions are dismissed.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

kmv
Ct:anb