



IN THE COURT OF PRL. DISTRICT AND SESSIONS JUDGE

GADAG

**PRESENT: SRI. BASAVARAJ B.Com., LL.M.,
PRL. DISTRICT AND SESSIONS JUDGE,
GADAG.**

Dated this the 14th day of August, 2023

Crl.Misc.No.287/2023

BETWEEN:

- 1) Kalmesh s/o.Devappa Achari
Age:26 years, Occ: Agriculture,
R/o.Basapur, Tq Laxmeshwar Dist Gadag.
- 2) Mahantesh S/o Devappa Achari
Age:28 years, Occ: Agriculture,
R/o.Basapur, Tq Laxmeshwar Dist Gadag.
- 3) Devappa s/o. Channabasappa Achari
Age:68 years, Occ: Agriculture,
R/o.Basapur, Tq Laxmeshwar Dist Gadag.

...PETITIONER/S

(By Sri.V.S. Pashupathihal, Advocate)

AND:

The State of Karnataka,
Through PSI Laxmeshwar P.S.

(By Learned Public Prosecutor)

...RESPONDENT/S

ORDERS

The learned Advocate appearing for petitioners has filed this petition u/sec.438 of Cr.P.C to grant them anticipatory bail in connection with Laxmeshwar P.S. Cr.No.103/2023 for the offences punishable u/secs.323, 324, 354, 504, 506 r/w sec.34 of IPC.

2. In the application by reproducing the averments made in the complaint it is further stated that the petitioners are innocent and law abiding persons. The petitioners came from respected family. The petitioners denied all the allegations in the said case. The alleged offences are not punishable with imprisonment for life or death. The petitioners having dependents and they have the responsibility to look after them. The petitioners are permanent residents of Basapura village and having movable and immovable properties in Basapura village. The petitioners are doing agriculture and the petitioner No.3 is 68 years old aged person. The complainant colluding with ill wishers of them have filed the false complaint. The petitioners are doing agricultural work and now they have grown corn and chilly crops in the land and if they are arrested and kept in jail it will cause mental and physical harassment to them and the crops do not come. On the basis of false complainant in Laxmeshwar PS Crime No.103/2023 the Police are Knocking the doors of the petitioners and if they are arrested their family reputation will spoil. The petitioners are ready and willing to furnish surety and ready to abide by all the conditions imposed by the court. The Lakshmeshwar police have registered case on false information. All the allegations made against the petitioners are false. So, he prays to allow the application.

3. The Learned Public Prosecutor has filed objections to the application by reproducing the averments made in the complaint it is further contended that the petitioners are absconding from the date of offence. If the petitioners are released on bail, they may destroy the evidences. There is possibility that they may threaten and assault the witnesses. The petitioners and the complainant belong to different castes. If the petitioners are released on bail, there is a possibility of disruption of law and order. If the petitioners are granted anticipatory

bail, there is possibility of destroying the evidences. The petitioners are cruel in nature and if they are granted anticipatory bail there is chances of galata took place between them. So, she prays to reject the application.

4. Heard and perused the records of the case.

5. The points that would arise for my consideration are:

(1) Whether the petitioners are entitled for grant of anticipatory bail in connection with Laxmeshwar PS Cr No.103/2023?

(2) What Order?

6. My finding to the above points are as follows -

Point No.1: In the affirmative.

Point No.2: As per final order, for the following:

REASONS

7. **POINT NO.1:** The learned advocate appearing for the petitioners submitted on the line of petition averments. So, he prays to allow the petition.

8. The learned Public Prosecutor submitted on the line of objection statement averments. So, she prays to reject the petition.

9. The petition, FIR and objections reveal that the complaint filed by the first informant stating that on 13-07-2023 morning at about 8.30 a.m her son Manjunath Jagadish Kanoji and her husband Jagadish Gadigeppa Kanoji both sowed the land with tractor and stopped the said tractor near their house. Then while washing the tractor and kurgi with water by that time the petitioners colluding with each other came and obstructed not to wash the tractor in front of their house. Then petitioner No.1 came with iron rod and assaulted to her husband's head and then she came to rescue her husband,

then all the petitioners came together and grabbed her hand and dragged her saree and thereby outraged her modesty and also abused her in filthy language. The petitioner No.1 gave provocation to pull her saree. Then her father-in-law's sons by name Shambhu, Shankar and Ishwar came and rescued them. Then the petitioners gave threat to their lives. Accordingly, she lodged the complaint against the petitioners. Hence, the Laxmeshwar Police have registered the case in Crime No.103/2022 against the petitioners. Now the petitioners came up with this petition seeking anticipatory bail.

10. The points to be considered while granting bail is; whether the petitioners have committed grave nature of offences, may abscond and tamper with the prosecution witnesses. The averments of the complaint disclose that the petitioners have assaulted with iron rod over the head of the first informant's husband Jagadish and also pulled the sarre of the first informant and outraged her modesty. There are no materials on record to show that the petitioners are habitual offenders. So, if the entire allegations in the complaint and other materials on record are taken at its face value the petitioners would not liable to be punishable with death. Hence, it is clear that there are no grave nature of allegations against the petitioners for having committed the grave offences. The averments of the petitioners that they are permanently residing at the address shown in the petition is not disputed. Hence, it is clear that the presence of the petitioners can be secured at the time of investigation and at the time of trial before the court easily. There are no materials on record to show that the petitioners may tamper with the prosecution witnesses. The bail is a rule and jail is an exception. If the petitioners are not released on bail it will amount to pretrial conviction. By considering the apprehension of the prosecution that the petitioners may misuse

their liberty if they are granted bail may be met by imposing suitable conditions in order to protect the interest of prosecution. Having regard to the facts and circumstances of the case, this court feels that it is just and proper to grant anticipatory bail to the petitioners by exercising discretion. Accordingly, the petitioners are entitled for anticipatory bail. Hence, the point No.1 is answered in the affirmative.

11. **POINT NO.2**: In the result, this court proceed to pass the following:

ORDER

The bail petition filed by the petitioners No.1 to 3 u/sec.438 of Cr.P.C. is allowed.

The petitioners are released on anticipatory bail in Laxmeshwar Police Station Cr.No.103/2023 in the event of their arrest by the respondent Police on execution of personal bond of Rs.75,000/-each with a surety of like sum to the satisfaction of concerned investigating officer subject to the following conditions:

1. They shall not commit similar offence.
2. They shall not abscond.
3. They shall not tamper the prosecution witnesses by exercising threats, inducements or otherwise.
4. They shall not destroy the prosecution evidence.
5. They shall co-operate with the I.O. in the investigation of the matter.
6. They shall mark their attendance before the concerned police station on 2nd Sunday and 4th Sunday of every month in between 10.00 a.m. to 1.00 p.m. till the filing of final report.

If the petitioners violates any of the above conditions,
the bail granted stands canceled automatically.

(Dictated to the Stenographer, typed by him directly on computer, corrected by me
and then pronounced in the open court on 14th day of August, 2023)

(Basavaraj)
Prl. District & Sessions Judge,
Gadag