IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 30TH DAY OF MAY, 2023

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO.200190 OF 2023

BETWEEN:

ANEES AHMED S/O BABUSAHEB SHAIKH
AGE: 54 YEARS, OCC. PROFESSOR IN SOCIOLOGY
ANJUMAN DEGREE COLLEGE,
VIJAYAPURA,
R/O. KIRTI NAGAR,
VIJAYAPURA-586101.

…PETITIONER

(BY SRI. K. DIWAKAR, LEARNED SENIOR ADVOCATE FOR

SRI. ABHISHEK KUMAR, ADVOCATE)

Digitally signed by KHAJAAMEEN L MALAGHAN
Location: High Court of Karnataka

AND:

1. STATE OF KARNATAKA
   BY THE PSI OF GANDHI CHOWK POLICE,
   REP. BY STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   AT KALABURAGI-585103.

2. SHOHEBMOHAMMED KUDAGI
   S/O: RIYAZ AHMAD KUDAGI
   AGE: 32 YEARS OCC: GOVERNMENT SERVICE,
   R/AT: WARD NO.27, ASAR ROAD,
   DARABAR GALLI, VIJAYAPURA-586 101.

3. MRS. ATIKA UMES W/O MUSTAKEEM KUDAGI
AGE: 22 YEARS
BESIDE YUSF ENGINEER BUILDING
NAUBAG, VIJAYAPURA-586 108.

…RESPONDENTS

(BY SRI. GURURAJ V. HASILKAR, HCGP FOR R1

BY SRI.KADLOOR SATYANARAYANACHARYA, ADV., FOR R2

SRI.SHARATH J.M. & SRI.ANNARAYA M. ADVOCATES FOR R3)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING TO DIRECT THE RESPONDENT POLICE TO ENLARGE THE PETITIONER ON BAIL IN C.C.NO.5917/2022 REGISTERED AT GANDHI CHOWK, VIJAYPURA POLICE STATION IN CRIME NO.27/2022, PENDING BEFORE THE I ADDITIONAL CIVIL JUDGE (JR. DN) AND JMFC, COURT AT VIJAYAPURA IN C.C.NO.5917/2022 FOR THE ALLEGED OFFENCES PUNISHABLE UNDER SECTIONS 120(B), 143, 147, 148, 149 AND 302 READ WITH SECTION 149 OF IPC.

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

ORDER

This petition under Section 439 of Cr.P.C. is filed by the petitioner – accused No.3 to enlarge him on bail in C.C.No.5917/2022, pending on the file of I Additional Civil Judge (Jr. Dn) and JMFC Court at Vijayapura, in Crime No.27/2022, registered by the Gandhi Chowk Police Station, Vijyapura, for the offences punishable under Sections 120(B), 143, 147, 148, 149 and 302 read with Section 149 of IPC.

02. The learned counsel for the petitioner – accused No.3 submits that the petitioner - accused No.3 is entitled for bail on the ground of changed circumstances, since the medical report clearly indicates that the petitioner – accused No.3 is suffering from diffuse disc bulge with annular tear causing mild impression on thecal sac and adjacent nerve roots and the said accused is referred to higher center.

03. On the other hand, the learned consel for the respondent No.2 – complainant submits that the petitioner – accused No.3 can take treatment in the judicial custody, and there is no requirement for the petitioner – accused No.3 to take treatment in any hospital outside the jurisdiction of Vijayapur. Hence, the petitioner – accused No.3 is not entitled for bail on medical grounds, and sought for dismissal of the petition.

04. The learned High Court Government Pleader for the respondent No.1 – State reiterated the submission made by the learned counsel for the respondent No.2 – complainant.

05. Considered the submissions of the learned counsel for the parties.

06. The summary of the charge-sheet is that the accused Nos.1, 2, 3, 5, 9, 10, 11, 12, 13 and 14 have conspired together and they went near Itagi Petrol Pump and accuse Nos.1, 3 and 5 were watching the movement

of the deceased. Accused No.10 and Accused No.11 drove the Bolero vehicle and dashed against the vehicle of the deceased from behind, and due to the said impact, the deceased vehicle hit to the tractor, consequent upon, he fell down. Then accused Nos.2 and 9 assaulted him with base ball bat, on his head and ran away.

07. The petitioner – accused No.3 had approached this Court to enlarge him on bail in Crl.P.No.201123/2022. This Court by an order dated 30.09.2022 dismissed the petition.

08. The petitioner – accused No.3 thereafter complaints of chest pain. Hence, he was taken for treatment at District Hospital, at Vijayapura as inpatient. The discharge summary issued by the District Hospital, Vijayapura indicates that the petitioner – accused No.3 was admitted on 29.11.2022 and discharged on 04.12.2022. The discharge summary further indicates that the accused needs further treatment and he was referred to higher center. The medical records produced by the

accused herein have not been disputed by the State or the de-facto complainant. The medical report indicates that the accused requires further treatment in higher center. The petitioner - accused No.3 has made out grounds to enlarge him on bail. Accordingly, I pass the following;

O R D E R

The Criminal petition is allowed.

The Petitioner - accused No.3 is enlarged on bail in C.C.No.5917/2022, pending on the file of I Additional Civil Judge (Jr. Dn) and JMFC Court at Vijayapura, in Crime No.27/2022, registered by the Gandhi Chowk Police Station, Vijyapura for the offences punishable under Sections 120(B), 143, 147, 148, 149 and 302 read with Section 149 of IPC., subject to the following conditions:

(a) Petitioner - accused No.3 shall furnish a personal bond for a sum of Rs.2 lakhs with one surety for the likesum to the satisfaction of the jurisdictional Court.

(b) He shall appear before the Court as and when required.

(c) He shall not threaten or allure the prosecution witnesses in whatsoever manner.

(d) He shall not get involved in similar offences.

(e) He shall not leave the territorial limits of the Trial Court without prior permission of the Trial Court.

(f) He shall be enlarged on bail for a period of six months only from today.

After expiry of six months the petitioner – accused No.3 shall surrender before the Court and take into judicial custody.

Sd/-
JUDGE

KJJ
List No.: 1 Sl No.: 17