NC: 2023:KHC-K:6310
CRL.P No. 201221 of 2023

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 9TH DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL PETITION NO. 201221 OF 2023 (438)

BETWEEN:

1. MAKDUM
   S/O. LAYAKALI INAMDAR,
   AGE: 25 YEARS, OCC: AUTO DRIVER,
   R/O. GUNJ GALLI, HAKEEM CHOWK,
   VIJAYAPURA-586101.

2. BANDENAWAJ
   S/O. LAYAKALI INAMDAR
   AGE: 27 YEARS, OCC: AGRICULTURE
   R/O. GUNJ GALLI, HAKEEM CHOWK,
   VIJAYAPURA-586101.

3. SMT.AFRIN
   W/O. MOHAMAD ALI JALAGERI,
   AGE: 35 YEARS, OCC: HOUSEHOLD WORK,
   R/O. NAVABHAG
   VIJAYAPURA-586101.

...PETITIONERS

(BY SRI. SHIVANAND V. PATTANASHETTI, ADVOCATE)

AND:

THE STATE OF KARNATAKA THROUGH
POLICE PSI, GANDHI CHOWK, P.S.,

Digitally signed by SHILPA R TENIHALLI
Location: HIGH COURT OF KARNATAKA

VIJAYAPURA,
DIST. VIJAYAPURA-586101
R/BY ADDL. SPP
HIGH COURT OF KARNATAKA
KALABURAGI BENCH-585107.

…RESPONDENT

(BY SRI. SHARANABASAPPA M. PATIL, HCGP)

THIS CRL.P IS FILED U/S. 438 OF CR.P.C PRAYING TO GRANT THE ANTICIPATORY BAIL TO THE PETITIONERS/ ACCUSED NO.1 TO 3 AND DIRECT THE GANDHI CHOWK PS CRIME NO.110/2023 VIJAYAPURA, DISTRICT VIJAYAPURA, TO RELEASE THE PETITIONERS/ ACCUSED NO.1 TO 3 ON BAIL IN THE EVENT OF THEIR ARREST FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 323, 324, 326, 307, 504 AND 506 R/W 34 OF IPC, PENDING ON THE FILE OF THE I ADDITIONAL CIVIL JUDGE AND JMFC COURT VIJAYAPURA.

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

ORDER

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

2. The petitioners, who are accused Nos.1 to 3 have filed this petition under Section 438 of Cr.P.C. for grant of anticipatory bail in Crime No.110/2023 of Gandhi Chowk police station, Vijayapura district for the offences

punishable under Sections 323, 324, 326, 307, 504 and 506 read with Section 34 of IPC.

3. Brief facts of the prosecution case are that, on 26.06.2023 at 5.15 p.m., the complainant lodged a complaint alleging that petitioner No.3, who is his wife was frequently talking with some persons over phone, thus, the complainant was objecting the same. On 25.06.2023, at 6.00 p.m., while the complainant came to his house, petitioner No.3 was talking over phone and hence, the complainant objected her and thus, she picked up quarrel with the complainant and thereafter, at about 10.00 p.m., she came along with her brother to his house, after seeing them, the complainant started proceeding towards Secab School, at that time, these petitioners took quarrel with the complainant, abused him in filthy language, intentionally provoked his breach of peace. Accused No.1 assaulted the complainant with knife on his neck and caused bleeding injuries, while accused Nos.2 and 4 have assaulted the complainant with their hands on his face and

cheek, thus caused injuries. Therefore, the complainant lodged a complaint. Apprehending their arrest at the hands of the respondent - police, these petitioners have filed a petition before the First Additional Sessions Judge, Vijayapura in Crl.Misc.No.996/2023, who in turn, dismissed the same on 11.07.2023. Hence, the petitioners have filed the present petition.

4. The learned counsel for the petitioners/accused Nos.1 to 3 contended that the petitioners are innocent and they have not committed any offences; there are matrimonial disputes between petitioner No.3 and the complainant; they hails from a respectable family and they having movable and immovable property in their locality; they would abide by the conditions to be imposed by this Court. On all these grounds, learned counsel prayed for grant of anticipatory bail to the petitioners.

5. The learned High Court Government Pleader contended that, prima facie there is a case against these petitioners and they have committed the offences punishable under Sections 326 and 307 of IPC; if they are released on bail, they may threaten the prosecution witnesses and hamper the investigation. Thus, he prayed for dismissal of the petition.

6. On perusal of the complaint averments, it appears that, petitioner No.3 was frequently talking with her friends over phone and therefore, the complainant objected her for the same. In this regard, she called her brothers and on 25.06.2023, herself and her brothers assaulted the complainant. As per the allegations, accused No.1 - Makdum Inamdar assaulted the complainant with the knife on the neck of the complainant and caused bleeding injuries. On perusal of the wound certificate, there are five injuries, which are as under:

1. A CLW of about 12cmx2cmx2cm over (Lower to cricoid).

2. A CLW of about 6cmx2cmx2cm over nape of the neck.

3. A CLW 'J' shaped at glabella of about 3cmx1cmx1cm.

4. A CLW in front of left ear of about 2cmx1cmx1cm extending to cheek.

5. A CLW of about 2cmx0.5cmx0.5cm at nape of neck (right side).

7. As per the opinion of the doctor, injury Nos.1 to 5 are grievous injuries. Therefore, as per the contents of the FIR and the wound certificate, it shows that, there is prima facie material against accused No.1, as accused No.1 has assaulted the complainant on his neck with a knife, which is a vital organ.

8. It is well established principles of law that while considering a bail petition, Court has to consider the nature of the offences, circumstances in which the offence is committed, position and status of the accused with reference to the victim and witnesses; likelihood of fleeing

away from justice or repeating same offences by the accused, tampering with witnesses, character and antecedents of the accused. Further, the law is well settled that while disposing of bail petition, Court need not scan the prosecution papers and hold a mini trial. Keeping all these factors in mind, on careful perusal of the entire material placed on record, this Court is of the opinion that petitioner No.1/accused No.1 is not entitled for grant of anticipatory bail as there is a prima facie case against him for the offence punishable under Section 307 of IPC.

9. So far as the allegation against petitioner No.2 is concerned, he has assaulted the complainant with his hands on the face of the complainant and so far as allegation against petitioner No.3 is concerned, the complainant has not made any allegation, except the allegation that she called accused Nos.1, 2 and 4 in order to assault the complainant. Accordingly, petitioner Nos.2 and 3/accused Nos.2 and 3 are entitled to be enlarged on

bail for the aforesaid offences. Hence, the Court pass the following:

ORDER

The bail petition filed by the petitioners under Section 438 of Cr.P.C. is allowed in part. The bail petition filed by accused No.1/petitioner No.1 is rejected.

So far as bail petition filed by accused Nos.2 and 3/petitioner Nos.2 and 3 is concerned, the same is allowed. The petitioner Nos.2 and 3/accused Nos.2 and 3 are ordered to be enlarged on bail in Crime No.110/2023 of Gandhi Chowk police station, Vijayapura district, on they executing a personal bond for a sum of Rs.1,00,000/- each with a surety for the likesum to the satisfaction of the Trial Court, in the event of their arrest by the respondent - police, subject to the following conditions:

1. The petitioner Nos.2 and 3/accused Nos.2 and 3 shall surrender before the Investigating Officer within 10 days from today.

2. They shall not threaten the prosecution witnesses and shall cooperate with the Investigating Officer during the investigation.

3. They shall appear before the jurisdictional Court without fail.

4. Petitioner No.2/accused No.2 shall mark his attendance before the respondent - police once in a month i.e., on first Sunday of every month in between 10.00 a.m. to 5.00 p.m. until filing of charge sheet or 6 months, whichever is earlier.

Sd/-
JUDGE

SRT
List No.: 1 Sl No.: 16