NC: 2023:KHC:32255
CRL.P No. 7123 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO.7123 OF 2023

BETWEEN:

1. SRI B. RANJITH
   AGED ABOUT 34 YEARS
   S/O. SANJEEVA MANIYANI
   R/AT. 5-23-2 BEEDU HOUSE
   BELLARE VILLAGE, SULLIA
   DAKSHINA KANNADA-574 203.

2. SRI SADHASHIVA POOJARY
   AGED ABOUT 38 YEARS
   S/O. SUBBAPPA POOJARY
   R/AT. BERYA HOUSE
   KODIYALA VILLAGE, SULLIA,
   DAKSHINA KANNADA-574 203.

3. SRI SUDHEER
   AGED ABOUT 30 YEARS
   S/O. LATE BABU POOJARY
   R/AT. KALANJA HOUSE
   KALANJA VILLAGE, SULLIA TALUK
   DAKSHINA KANNADA-574 203.

PETITIONERS

(BY SRI ARUNA SHYAM, SENIOR COUNSEL, A/W
SRI SUYOG HERELE E., ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH BELLARE POLICE STATION
REPRESENTED BY STATE PUBLIC PROSECUTOR
OFF/AT HIGH COURT OF KARNATAKA BUILDING

Digitally signed by PADMAVATHI B K
Location: HIGH COURT OF KARNATAKA

AMBEDKAR VEEDHI
BENGALURU-01.

…RESPONDENT

(BY SMT. N. ANITHA GIRISH, H.C.G.P.)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 CR.P.C PRAYING TO ENLARGE THE PETITIONERS ON BAIL IN CR.NO.60/2022 OF BELLARE POLICE STATION, DAKSHINA KANNADA, FOR THE ALLEGED OFFENCE UNDER SECTION 302 READ WITH 34 OF IPC PENDING ON THE FILE OF THE LEARNED ADDITIONAL CIVIL JUDGE (Jr.Dn.) AND J.M.F.C. COURT, SULLIA, DAKSHINA KANNADA, DISTRICT.

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

ORDER

Accused Nos.5, 6 and 3 are before this Court seeking regular bail in crime No.60/2022 registered by the Bellare Police, Dakshina Kannada District for the offences punishable under Sections 143, 147, 323, 324, 307 and 149 of the IPC.

2. Heard the learned counsel for the parties.

3. On the complaint of one - Ibrahim Shanif dated 20.07.2023, Bellare Police had registered FIR in Crime No.60/2022 against eight persons initially for the offences punishable under Sections 143, 147, 323, 324, 307 r/w 149 IPC. In the complaint, it is averred that on 19.07.2022 at about 23:00 hours, the accused persons with a common intention

called the deceased - Masood, to the place of incident and all of a sudden accused persons attacked him and assaulted him with hands and legs. When the accused persons pushed the aforesaid Masood, he fell down and accused No.1 - Abhilash, is said to have assaulted the deceased - Masood with an empty juice bottle on his head. After the said blow, Masood allegedly ran away from the spot and he was found near a well belonging to one Aboobakar, lying unconscious. Immediately, he was shifted to a hospital at Sullia and thereafter, for better treatment shifted to Mangalore. On 20.07.2022, Masood died in the hospital at Mangaluru.

4. The petitioners are arrayed as accused Nos.5, 6 and 3 respectively in the FIR. They were arrested on 20.07.2022. The investigation in the case is complete and charge sheet is filed. Petitioners had filed bail application before the V Additional District and Sessions Judge, D.K., Mangaluru, and the same was dismissed on 03.07.2023. Therefore, the petitioners are before this Court.

5. Learned senior counsel appearing for the petitioners submits that the allegation of assault on the deceased on his

head is against accused No.1 – Abhilash, who is said to have assaulted with an empty bottle. Accused Nos.4 and 7, against whom similar allegations are made are granted bail by this Court in Crl.P.No.6532/2023 disposed on 10.08.2023 and Crl.P.No.5568/2023 disposed on 04.08.2023, respectively and therefore, he prays to grant regular bail on the ground of parity.

6. Learned High Court Government Pleader who has opposed the bail application, does not dispute the submission made by the learned senior counsel for the petitioners.

7. Material on record would go to show that the allegation of assault on the head of the deceased with an empty bottle is only against accused No.1. The allegations against other accused persons is only assault on the deceased with their hands and legs and as a consequence, when the deceased fell down, accused No.1 assaulted with an empty bottle on the head of the deceased. This Court has already enlarged accused Nos.4 and 7, against whom similar allegations are made. Therefore, the petitioners herein are entitled to grant of regular bail on the ground of parity.

8. Accordingly, petition is allowed. The petitioners are directed to be enlarged on bail in Crime No.60/2022, registered by the Bellare Police, pending on the file of the Additional Civil Judge (Jr. Dn.) and JMFC Court, Sulia, Dakshina Kannada District, for the offence punishable under Section 302 r/w. 34 of the IPC, subject to the following conditions:

a) Petitioners shall execute a personal bond for a sum of Rs.1,00,000/- (one lakh only) with two sureties each, for the likesum, to the satisfaction of the jurisdictional Court;

b) The petitioners shall appear regularly on all the dates of hearing before the trial Court unless the trial Court exempts their appearance for valid reasons;

c) The petitioners shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioners shall not involve in similar offences in future;

e) The petitioners 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

NVJ
List No.: 1 Sl No.: 50