



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF MAY, 2024

BEFORE

THE HON'BLE MR JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.3537 OF 2024

BETWEEN:

1. LAKSHMAN,
S/O. HUCCHYYA MADAR,
AGED ABOUT 21 YEARS,
R/AT #4-93-2, LAXMI MALLIKARJUNA NIVAS,
MULLAKADU, 4TH MAIL CROSS,
NEAR GOVERNMENT SCHOOL,
KAVOOR POST, MANGALORE - 575 015.

...PETITIONER

(BY SRI DHANANJAY KUMAR, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
BY URWA POLICE STATION,
REP. BY SPP, HIGH COURT OF KARNATAKA,
BANGALORE - 560 001.

...RESPONDENT

(BY SRI M. DIVAKAR MADDUR, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON BAIL IN C.C.NO.751/2024 (CRIME NO.7/2024) OF URVA P.S., MANGALORE CITY FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 394, 397 READ WITH SECTION 34 OF IPC ON THE FILE OF THE III JMFC COURT, MANGALORE.

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





ORDER

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

2. The factual matrix of the case of the prosecution is that on 15.01.2024, when the complainant was proceeding along with his friend in the motor cycle, at that time, three persons came in the motor cycle bearing registration No.KA-19-HJ-4976 and questioned to where he is going and demanded to handover the mobile and when he refused to hand over the mobile, immediately he took out the knife and caused threat and snatched the mobile and the other person i.e., the present petitioner herein snatched an amount of Rs.500/- from his pocket. All the three accused persons fisted on his face and the person who was having the knife in his hand, caused injury to his right hand and all of them fled away from the place in their motor cycle. Based on the complaint dated 16.01.2024, which was given in the early morning at 00.30 hours, the police have registered a case in Crime No.7/2024 for the offences punishable under Sections 394, 397 read with Section 34 of IPC. The police have



investigated the matter and filed the charge-sheet and the case is numbered as C.C.No.751/2024.

3. The learned counsel for the petitioner would vehemently contend that a false allegation is made against the petitioner, who is accused No.2 and there is no recovery at the instance of this petitioner except motor cycle and either the mobile or cash was recovered from him. Based only the voluntary statement of accused No.1 from whom mobile as well as knife was recovered, this petitioner has been falsely implicated in the case. The learned counsel submits that this petitioner was apprehended on 18.01.2024 and he is in custody and investigation has been completed and hence there is no need to continue him in custody and he may be enlarged on bail.

4. Per contra, the learned High Court Government Pleader appearing for the respondent-State would contend that the vehicle, which was used for committing the offence belongs to the petitioner and recovery is made at his instance. All the accused persons have joined their hands in committing the offence and offence is also Sections 394, 397



read with 34 of IPC. The learned counsel submits that mere filing of the charge-sheet is not a ground for enlarging him on bail.

5. Having heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the respondent-State and also on perusal of the material available on record, column No.17 of the charge-sheet discloses the involvement of this petitioner along with other accused. The Court has to take note of the gravity of the offence while exercising the power under Section 439 of Cr.P.C. and the mobile is worth about Rs.3,000/- and the allegation is that they snatched an amount of Rs.500/- and the same was not recovered, but knife was recovered at the instance of accused No.1 and so also the mobile and there is no recovery except motor cycle at the instance of this petitioner. Having considered the gravity of the offence and there is no any previous criminal antecedents against the petitioner and investigation has already been completed and charge-sheet is also filed, hence it is a fit case to exercise the discretion in favour of the petitioner. Whether this petitioner had indulged in committing such an offence and shared



common intention along with other accused is a matter of trial. In order to safeguard the interest of the prosecution, this Court can impose certain conditions for pre-trial.

6. In view of the discussions made above, I pass the following:

ORDER

The criminal petition is allowed. Consequently, the petitioner shall be released on bail in connection with C.C.No.751/2024 (Crime No.7/2024) of Urva Police Station, Mangalore City, for the offences punishable under Sections 394, 397 read with Section 34 of IPC, subject to the following conditions:

- (i) The petitioner shall execute his personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the like-sum to the satisfaction of the jurisdictional Court.
- (ii) The petitioner shall not indulge in tampering the prosecution witnesses.
- (iii) The petitioner shall appear before the jurisdictional Court on all the future hearing



dates, unless exempted by the Court for any genuine cause.

- (iv) The petitioner shall not leave the jurisdiction of the Trial Court without prior permission of the Court till the case registered against him is disposed of.

Sd/-
JUDGE

MD
List No.: 1 Sl No.: 84