



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF MAY, 2024

BEFORE

THE HON'BLE MR JUSTICE V SRISHANANDA

CRIMINAL PETITION NO. 4103 OF 2024 (439-)

BETWEEN:

1. YUNUS AHMED,
S/O YARAB MANZIL,
AGED ABOUT 36 YEARS,
TRANSPORT,
R/O YARAB MANZIL,
NEAR GOUSIYA SOUND SYSTEM,
CHITRADURGA - 577 501.
2. NAVEED,
S/O FAIROZ,
AGED ABOUT 34 YEARS,
COOLIE,
R/O NEAR ANJENAYA TEMPLE,
HLK ROAD,
CHITRADURGA-577 501.
3. SADATH @ SYED SADATH,
S/O ABDULLA @ ABDUL SHAH WALI,
AGED ABOUT 27 YEARS,
COOLIE, R/O 2ND CROSS,
NEHRU NAGARA,
CHITRADURGA - 577 501.
4. JAFAR SIDDIQ,
S/O YASEEN KHAN,
AGED ABOUT 32 YEARS,
COOLIE, R/O 3RD CROSS,
NEHRU NAGARA,
CHITRADURGA - 577 501.





(NOW ALL ARE IN JUDICIAL CUSTODY,
DISTRICT PRISON, CHITRADURGA)

...PETITIONERS

(BY SRI. HASMATH PASHA, SENIOR COUNSEL
FOR KARIAPPA N.A.,ADVOCATE)

AND:

STATE OF KARNATAKA BY
CHITRADURGA RURAL POLICE,
CHITRADURGA - 577 501.

(REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE-560 001.)

...RESPONDENT

(BY SMT.SOUMYA R., ADVOCATE)

THIS CRL.P IS FILED U/S.439 CR.P.C PRAYING TO ENLARGE THEM ON BAIL IN CR.NO.133/2024 OF CHITRADURGA RURAL POLICE STATION, CHITRADURGA FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 143, 147, 148, 504, 395, 448, 323, 324, 307, 427 R/W SEC.149 OF IPC WHICH IS PENDING ON THE FILE OF THE I ADDITIONAL CIVIL JUDGE (JUNIOR DIVISION) AND JMFC COURT, CHITRADURGA ON SUCH TERMS AND CONDITIONS, IN THE ENDS OF JUSTICE.

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



ORDER

Heard Sri. Hasmath Pasha, learned Senior Counsel for the revision petitioner and learned High Court Government Pleader.

2. Criminal petition is filed under Section 439 of Cr.P.C., with the following interim prayer.

3. Facts in brief, which are utmost necessary for disposal of the bail petition are as under:

Chithradurga Rural Police registered a case in Crime No.133/2024 for offences under Sections 427, 504, 143, 147, 148, 149, 395, 448, 307, 323, 324 of Indian Penal Code, on 02.04.2024 at about 8:30.p.m., based on the complainant lodged by B.H.Gowdru alias B. Facts further reveal that there was an incident that had occurred at about 2:30.p.m., on 02.04.2024, where under a Muslim Woman by name Farzana Khanum had a conversation with B.H.Gowdru alias B. At that juncture, about 18 to 20 persons from Muslim community people have forcibly ingressed to the compound wall of the house of B.H.Gowdru and took serious objection in having a conversation with Muslim Woman.



4. It is also contented that the mob assaulted with hands and legs and stones and had a Neck Chain weiging of 55 grams, One Bracelet of 30 grams and Two Rings of 20 grams and Cash of Rs.40,000/- from his pocket were stolen by the mob and they also caused damage to the car bearing registration NO.KA-16-N-6574, which was parked there.

5. In respect of the same incident, Smt. Farzana Khanum also lodged a complaint before the Women Police Station, Chitradurga against B.H.Gowdru alias B on 03.02.2024 at 6:00.a.m. Police are investigating both the matters. In the process, petitioners who were accused Nos.2, 4, 5 and 6 were arrested and they were send to Judicial custody. The attempt made by the petitioners herein to obtain an order of grant of bail is turned down by the learned District and Sessions Judge, Chithradurga. Thereafter, petitioners are before this Court.

6. Reiterating the grounds urged in the bail petition, Sri. Hasmath Pasha, learned Senior Counsel for the revision petitioners contended that even assuming that entire allegations found in the complaint lodged by Sri. B.H.Gowdru is



to be accepted has gospel truth, no ingredients are attracted in so far as the offence under Section 307 of I.P.C., *prima-facie*.

7. He further contended that at any rate, since there is case and counter-case, the accused/petitioners are entitled to be enlarged on bail. He further pointed out that having regard to the allegations levelled against the present petitioners in the incident, continuation of the accused/petitioners in Judicial custody no longer warranted and the apprehensions expressed by the prosecution can be met with by imposing suitable conditions.

8. Per contra, learned High Court Government Pleader opposes the grant of bail on the ground that the offence alleged against the petitioners are heinous in nature and it stands proved, the petitioners are liable for the punishment of life imprisonment and therefore, gravity of the offence is on the higher side.

9. He further contended that the investigation is still in inception stage and if the bail is granted to the petitioners, then



the investigation process could be hamper. He also pointed out that the release of the petitioners on bail may result in reputation of the offences and therefore, sought for release of bail.

10. Having heard the parties in detail, this Court perused the material on record. On such perusal of the material on record, admittedly, in respect of the trivial issue incident has occurred.

11. The complainant averments would clearly depict that the mob including the petitioners attacked the complainant by hands and legs and also stones and damaging the car and robbed to the precious items from the custody of the complainant. Since, the accused persons are in custody on and from 04.04.2024, the investigation could have progressed a considerable extent and at any rate, custodial interrogation if any, would have been completed. There is no criminal antecedents insofar as the petitioners are concerned.

12. As could be seen from the complainant averments itself, even though the prosecution has invoked Section 307 of I.P.C.,



prima-facie materials would not disentitle petitioners, from obtaining an order of grant of bail by resorting to special powers vested in this Court under Section 439 of Cr.P.C.

13. Apprehensions expressed by the prosecution can be met with by imposing suitable and similar conditions.

14. Accordingly, the following:

ORDER

(i) The bail petition is **allowed**.

(ii) Petitioners shall be enlarged on bail by taking a bond in a sum of Rs.2,00,000/- with two sureties for the like sum to the satisfaction of the Trial Court

(iii) Petitioners shall attend the Court regularly.

(iv) Petitioner shall mark their attendance before the investigation officer every alternative Sunday in between 10:00.a.m., to 2:00.p.m., till the charge sheet is filed.

(v) Petitioners shall not leave the Jurisdiction of the Chitradurga District without prior permission.



(vi) Petitioners shall not directly or indirectly tamper the prosecution evidence nor hamper the investigation process.

(vii) Violation of any one of the conditions would entitle the prosecution to seek for cancellation of bail.

Order and according.

**Sd/-
JUDGE**

PHM
List No.: 1 Sl No.: 38