



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF MAY, 2024

BEFORE

THE HON'BLE MR JUSTICE H.P.SANDESH

CRIMINAL PETITION NO.3782 OF 2024

BETWEEN:

1. SALMAN @ CHIRIK,
S/O MUNAWAR PASHA,
AGED ABOUT 24 YEARS,
R/AT 98, 3RD CROSS,
NEAR SHIVANNA CIRCLE,
2ND STAGE, RAJIV NAGAR,
MYSURU-570019.

...PETITIONER

(BY SRI LETHIF B, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY UDAYAGIRI POLICE STATION,
MYSURU DISTRICT,
REPRESENTED BY SPP,
HIGH COURT BUILDING,
BANGALORE-560001.

...RESPONDENT

(BY SMT. WAHEEDA M.M., HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON BAIL IN S.C.NO.269/2022 (CR.NO.179/2021) OF UDAYAGIRI POLICE STATION, MYSURU CITY FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 144, 147, 148, 341, 323, 354(B), 307, 302 R/W 149 OF IPC, PENDING ON THE FILE OF THE 4TH ADDL. DISTRICT AND SESSIONS JUDGE, MYSURU.

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. This petition is a successive bail petition of the petitioner, who is accused No.3. This Court earlier in Crl.P.No.9818/2021, in view of the filing of the charge-sheet, granted liberty to the petitioner to approach the Trial Court. The petitioner also approached this Court in Crl.P.No.7785/2022 and the same was rejected vide order dated 21.11.2022, on merits. The petitioner once again approached this Court by filing a fresh petition in Crl.P.No.2600/2023 and this Court rejected the same vide order dated 14.06.2023, with liberty to approach this Court after examination of the eye-witnesses.

3. The learned counsel for the petitioner submits that the injured witnesses as well as the eye-witnesses have been examined before the Trial Court as P.W.1 to P.W.7 and none of them have supported the case of the prosecution and during the course of cross-examination also, nothing is elicited from their mouth and nothing is there to appreciate in the matter on merits. The learned counsel submits that this petitioner is in



custody from two years eight months and accused No.1, who is also facing similar charges is enlarged on bail by this Court vide order dated 29.07.2022. Accused Nos.5 and 7 and this petitioner are in custody and other than this petitioner and accused Nos.5 and 7, all are on bail. The learned counsel submits that in view of the injured witnesses and eye-witnesses have not supported the case of the prosecution, this Court has to enlarge the petitioner on bail.

4. Per contra, the learned High Court Government Pleader appearing for the respondent-State submits that the charges levelled against the petitioner is different and the evidence on record is different. Hence, the petitioner is not entitled for bail.

5. Having heard the learned counsel for the petitioner and the learned High Court Government Pleader appearing for the respondent-State and also looking into the depositions of P.W.1 to P.W.3, who have sustained injuries in the incident, though P.W.1 says that when he went to pacify the galata, he had sustained injuries on above the left eye, but he says that the accused persons were not there in the spot and his brother and Yasin were not subjected to assault by this petitioner. He



identifies his signature in the complaint Ex.P.1 and he totally turned hostile and nothing is elicited from the mouth of P.W.1 in the cross-examination. P.W.2 and P.W.3 have also stated that they have sustained injuries. P.W.2 says that someone had inflicted injury on his cheek and the said person is not before the Court. He was subjected to cross-examination and nothing is elicited from his mouth. P.W.3 though says that he was also assaulted, none of the accused persons, who are present before the Court assaulted him and he has turned hostile. P.W.4 to P.W.7 are the eye-witnesses, but they have also not stated anything about the incriminating evidence about the petitioner herein. When such being the material on record and when the eye-witnesses and the injured witnesses have been examined, in the absence of incriminating evidence, the petitioner is entitled for bail. However, this Court can impose certain conditions to the petitioner in order to protect the interest of the prosecution to examine the remaining witnesses.

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



S.C.No.269/2022 (Crime No.179/2021) of Udayagiri Police Station, Mysuru City, for the offences punishable under Sections 143, 144, 147, 148, 341, 323, 354(B), 307, 302 read with 149 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.: 51