

Karnataka High Court

Sri Subhas S/O Rangappa Patoli vs The State Of Karnataka on 4 May, 2023

Bench: Anil B Katti

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CRL.P No. 100887 of 2023

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 4TH DAY OF MAY, 2023

BEFORE

THE HON'BLE MR JUSTICE ANIL B KATTI
CRIMINAL PETITION NO. 100887 OF 2023 (439-)

BETWEEN:

SRI. SUBHAS S/O RANGAPPA PATOLI
AGE.48 YEARS, OCC. AGRICULTURE,
R/O. SAVALAGI, Tal. JAMAKHANDI,
DIST. BAGALKOTE-587330.

...PETITIONER

(BY SRI. SHRINAND A. PACHCHAPURE, SMT PALLAVI S.
PACHCHAPURE AND SRI. RAJENDRA R.PATIL, ADVOCATES)

AND:

VIJAYALAXMI
M BHAT

Digitally signed by
VIJAYALAXMI M BHAT
Location: HIGH COURT
OF KARNATAKA
DHARWAD

THE STATE OF KARNATAKA
THROUGH SAVALAGI POLICE STATION,
NOW REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA DHARWAD,
BENCH AT DHARWAD-580011.

...RESPONDENT

(BY SRI. PRAVEEN K. UPPAR, HCGP)

THIS CRIMINAL PETITION IS FILED U/SEC. 439 OF
CR.P.C., SEEKING TO GRANT BAIL THE
PETITIONER/ACCUSED NO.1 IN CRIME NO. 32/2023
REGISTERED FOR THE OFFENCES PUNISHABLE U/S 143,
147, 148, 323, 324, 307 AND 504 R/W SEC. 149 OF IPC AND
SECTION 25 OF ARMS ACT BY THE RESPONDENT SAVALAGI

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CRL.P No. 100887 of 2023

POLICE STATION, PENDING ON THE FILE OF COURT OF PRL.
CIVIL JUDGE (SR. DN.) CJM, JAMAKHANDI.

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

ORDER

Petitioner-accused No.1 filed petition under Section 439 of Code of Criminal Procedure (for short 'Cr.P.C) seeking Regular bail.

2. On the strength of the complaint filed by one Shridhar Basappa Kasar criminal law was set into motion by registering the case in Savalgi PS crime No.32/2023 for the offences punishable under Sections 143, 147, 148, 323, 324, 307, 504 read with Section 149 of Indian Penal Code and Section 25 of the Arms Act, 1959.

3. The factual matrix leading to the case of prosecution can be stated in nutshell to the effect that on 26.03.2023 at about 9:00 p.m, in Todalbagi village, the petitioner along with other accused formed themselves into unlawful assembly and went to the land of complainant. They picked up quarrel with complainant in respect of supply of dry grapes and payment of money. It is further alleged that accused have assaulted with clubs, stones, iron rod and caused CRL.P No. 100887 of 2023 bleeding injuries to complainant and the other witnesses who came to pacify the quarrel. Accused No.2 through gun fired in the air and threatened the complainant with life. On these allegations made in the complaint, the case is registered against petitioner and other accused named in the FIR.

4. Learned HCGP has orally objected for grant of bail on the premise that there are sufficient material evidence against accused No.1 for having actively participated in commission of the offence.

5. Heard the arguments of both sides.

6. On perusal of the complaint allegations it would go to show that complainant and accused No.2 started business of selling dry grapes and agreed to share the profit equally. It appears that there is dispute between the complainant and accused No.2 over sharing of profit of the said business. On 26.03.2023 at about 9:00 p.m, accused Nos.1 to 3 named in FIR along with other three unknown persons came to the land of complainant and demanded to give profit amount due to accused No.2. Accused No.2 switched off the dry grapes manufacturing machine and by taking gun in his possession CRL.P No. 100887 of 2023 fired in the air and remaining persons gave life threat to complainant. The allegation of assault by means of iron rod causing injury to complainant is against accused No.3. The son of complainant Shri Shreepad Shreedhar Kasar and villagers Prakash S/o Rukmavva Basaragi, Laxmipati Shivalingappa Kasar came to rescue the complainant, accused persons assaulted them with hands and pulled him to the ground.

7. Learned HCGP submits that he has already produced relevant records in Crl.P.No.100849/2023 and the same are secured in this case, from the office today for reference.

8. On perusal of wound certificates of complainant Shridhar Basappa Kasar, Laxmipati Shivalingappa Kasar and Prakash Rukmavva Basaragi would go to show that complainant has suffered lacerated and contusion injury. Complainant's son has suffered two contusion wounds and the said injuries are opined to be simple in nature. Other two persons namely Laxmipati Shivalingappa Kasar and Prakash Rukmavva Basaragi, no any injuries were found on their examination. Complainant and his son Shreepad Shridhar Kasar have already CRL.P No. 100887 of 2023 been discharged from the hospital. Therefore, it is evident that there is no any danger to their life.

9. The allegation against the petitioner/accused No.1 is that he has abused Prakash in filthy language and stated that he is in due of Rs.1,00,000/- to Anil-accused No.2. Other than this allegation, there is no any allegation of overt act of accused No.1 in causing assault either to complainant and his son or other two witnesses.

10. Insofar as allegation that this accused No.1 involved in other cases, learned counsel for the revision petitioner has produced computer generated print out taken out from website, to show that accused No.1 has been acquitted in SC.No.72/2008 and CC.No.62/2009. Learned counsel for the revision petitioner has also produced documents to show that petitioner is a Gram Panchayath member from 2010 and was president from 30.6.2015 to 26.02.2020, further he continued to be the member of Panchayath of Savalgi village. Therefore, mere filing of three cases against accused No.1 out of which two have been already ended in acquittal cannot be a ground to reject the bail application of accused No.1.

CRL.P No. 100887 of 2023

11. Learned counsel for the revision petitioner submits that accused No.3 has been already released on bail by the order of this Court in Crl.P.No.100849/2023 by order dated 2.5.2023, the said fact is not disputed by learned HCGP. Looking to the complaint allegations and role played by this accused, further injured witnesses have already been discharged from hospital, in my opinion accused is entitled for bail. Consequently, proceed to pass the following:

ORDER The criminal petition filed by petitioner/accused No.1 under Section 439 of Cr.P.C is hereby allowed.

* The impugned order dated 21.4.2023 passed by learned I Additional District and Sessions Judge, Bagalkot, sitting at Jamakhandi, in Crl.Misc.No.5115/2023 is hereby set-aside.

Petitioner-accused No.1 is ordered to be released on bail in connection with Crime No.32/2023 of Savalagi police station subject to following conditions:

i) Petitioner is ordered to be released on bail *deleted vide on executing personal bond for a sum of chamber order dated 4.5.2023 Rs.1,00,000/- with one surety for likesum Sd/-

ABKJ CRL.P No. 100887 of 2023 amount to the satisfaction of the jurisdiction of Court.

ii) The petitioner shall not leave the jurisdiction of trial Court without its prior permission.

iii) The petitioner shall not tamper with the prosecution witnesses in any manner.

iv) The petitioner shall produce address proof of document of himself and that of his surety.

v) The petitioner shall appear before the Trial Court as well as investigating officer if he is called for the purpose of investigation.

Sd/-

JUDGE VB