

KABI420003552024



**IN THE COURT OF THE III ADDL. DISTRICT & SESSIONS JUDGE,
BALLARI, (SITTING AT HOSAPETE)**

**PRESENT: SRI ABDUL RAHIMAN. A.NANDGADI,
B.Com.,LL.B.,(Spl.),
III Addl. District & Sessions Judge,
Ballari, (Sitting at Hosapete).**

DATED THIS THE 06th DAY OF APRIL, 2024.

Crl.Misc.Petition No.5197/2024

- Petitioners :**
1. Pruthvi Naik S/o Jagadeesha Naik,
Aged about 35 years, Agriculture,
 2. Karana Naik S/o Jagadeesha Naik,
Aged about 27 years, Agriculture,
 3. Mothi Bai W/o Jagadeesha Naik,
Aged about 48 years, Agriculture,
 4. Rekha Bai W/o Pruthviraj Naik,
Aged about 26 years, Agriculture,
 5. Jagadeesha Naik S/o Late Hanuma Naik,
Aged about 52 years, Agriculture,
 6. Dwarakesha Naik S/o Jaya Naik,
Aged about 42 years, Agriculture,
 7. Sharadabai W/o Dwarakesha Naik,
Aged about 35 years, Agriculture,
 8. Nagaraj Naik S/o Late Hanuma Naik,
Aged about 48 years, Agriculture,
 9. Shashi Bai W/o Nagaraj Naik,
Aged about 40 years, Agriculture,

10. Govinda Naik S/o Late Hanumantha Naik,
Aged about 62 years, Agriculturist,
11. Hoomali Bai W/o Govinda Naik,
Aged about 45 years, Agriculturist,
12. Akasha S/o Dwarakesh Naik,
Aged about 21 years, Agriculturist,

All are R/o Didgi Thanda,
Harapanahalli Taluk, Vijayanagar District.

(By Sri D.M.S. -Advocate)

V/s

Respondent :	The State, represented by the P.S.I., Arasikere Police Station. (By Learned Public Prosecutor)
---------------------	--

ORDERS ON BAIL PETITION

Present Petition is filed by the Petitioners/Accused Nos.1 to 12 in Arasikere P.S. Crime No.25/2024 U/Sec. 438 of Cr.P.C., praying to enlarge them on Anticipatory Bail, in the said Crime.

2. The Petitioners/Accused Nos.1 to 12 have contended that, they are innocent of the alleged offences. They are the law abiding citizens. They have not committed any of the offences, as alleged against them. The ingredients of offences punishable U/Sec. 354 and 324 of I.P.C. does not get attracted to the allegations made against them. There is an inordinate delay in lodging the Complaint.

Further, the alleged incident has never taken place. The matter is purely Civil in nature. Petitioner Nos.3, 4, 7, 9 and 11 are

ladies and other Petitioners are Agriculturists and are residents of the addresses shown in the Petition and they are having both movable and immovable properties. The Respondent Police are making hectic efforts to arrest the Petitioners and detain them in Judicial Custody. They are ready to abide by all the terms and conditions imposed by this Court. They are ready to offer surety to the satisfaction of the Court. Hence, prayed to allow this Petition and grant Anticipatory Bail.

3. *Notice of the Petition was taken by the learned P.P and the learned P.P has filed his objections, contending that, the Petitioners have committed heinous offences, by assaulting the Complainant, who has received the Injuries. The matter is under Investigation. If they are enlarged on bail, they may repeat the same and similar offences; they will tamper the Prosecution witnesses and may flee from justice, thereby leading to protraction of smooth Investigation process and Trial. Hence, prayed to reject the Bail Petition.*

4. *Heard the Arguments of the Learned Counsels for the Petitioners; and the Learned P.P.*

5. *The Points that arise for my consideration are:*

1. Whether the Petitioners/Accused Nos.1 to 12 in Arasikere P.S. Crime No.25/2024 are entitled for grant of Anticipatory Bail U/Sec 438 of Cr.P.C., in the said crime?

2. What Order?

6. My findings for the above Points are as under for the following reasons:

Point No.1: In the Affirmative;

Point No.2: As per final orders:

REASONS

7. Point No.1:

As per the decision **of the Hon'ble Apex Court, in the case of State of Maharashtra V/s Sitaram Popat Vetat & Another, reported in (2004) 7 SCC 521**, wherein it is held that;

“Reasons for grant or rejection of bail must be recorded particularly where an Accused is charged with a serious offences, without discussing the merits of evidence. Conclusive findings, as regards the points urged by the parties not expected of the Court considering the bail”.

8. I have perused the averments made in the above said Bail Petition, F.I.R., Complaint, the Objections filed by the learned P.P. and the materials on record.

9. Looking to the Complaint averments, the case of the Prosecution in brief is that:

A Complaint came to be filed by the Complainant – Ramesh Naik contending that, there is a Civil dispute between himself and Accused persons in respect of the land bearing Sy.No.187, measuring 12 Acres 91 cents, situate at Ramaghatta village. A case is pending between them on the file of the Deputy Commissioner, Hosapete.

On 13.03.2024 at about 11.00 a.m. in the morning, the notice was served from the office of the Deputy Commissioner through the Village Accountant by name Manjunatha to the land owners, Accused

Nos.1 to 10 have tried to take the photo of the said notice, at that time, he and his members asked them why you are taking photos, then Accused Nos.1, 2 and 10 have abused them in filthy language.

On the same day, at about 4.45 p.m. in the Evening, after completion of the school, his grandson by name Latesh Naik, aged about 9 years, came near the house of Ramesh Naik, Accused No.1 assaulted him. Then he tried to rescue his grandson, Accused No.1 assaulted his grandson by name Lathesh Naik with Iron rod on his right hand and caused injuries. He, his brother's son Pradeep, Prabhu and others have asked Accused No.1, as to why he has assaulted him. At that time, Accused persons on forming an unlawful assembly, infurtherance of common object to commit criminal acts; Accused No.1 assaulted him with Club on his right hand and caused inner pains; when Chitra Naik came to pacified the quarrel, at that time Accused No.8 assaulted her with stone on his waist and caused inner pains; Accused No.2 assaulted Shantha Naik with stone on the back side of his head and caused injuries. Accused Nos.10 and 12 have assaulted Pradeep Naik with deadly weapons on his chest and neck. Accused Nos.1 to 6 have assaulted his son/Appu with Iron rod on his forehead and on his head, caused injuries; Accused Nos.2 and 5 assaulted Mallesh Naik with their hands on his person and caused inner pains; Accused Nos.1, 2 and 6 have dragged the sari of Lakshmi Bai here and there and outrage her modesty; who is the wife of Chitra Naik; Accused Nos.3, 4, 7, 9 and 11 has assaulted them with their hands on their persons; they have gave life threat to them. Thereafter, they have took treatment at Government Hospital. Hence, he has lodge the Complaint.

On the basis of the said Complaint, a crime is registered at Arasikere P.S. Crime No.25/2024 for the offences punishable under Sections 143, 147, 148, 323, 324, 354 (B), 504 and 506 R/w Sec. 149 of I.P.C. The Investigation is not completed.

10. *The Learned Counsel for the Petitioners/Accused Nos.1 to 12 submits that, the Petitioners are innocent of the crime, they have not committed any offence, muchtheless as alleged by the Prosecution.*

Percontra, the Learned P.P. would contend that, the Petitioners have committed heinous offences, punishable U/Sec. 354 (B) and 324 of I.P.C., apart from other offences.

11. *Looking to the Complaint averments, though, it is alleged that, Accused No.1 to 12 have assaulted him, his grandson and his relatives with their respective hands; Accused Nos.1, 2 and 6 outrage the modesty of Laksmibai; pulled her sari and dragged her here and there; and gave life threat to them. But, the Prosecution has not produced any Medical records like Wound Certificates, inorder to show that, the Injures have been sustained by the Complainant and his mother, in the alleged assault; and they have taken treatment for the said Injuries. Yet the I.O. has to record the Statements of the Witnesses.*

So far as the Petitioners are concerned, the allegations are general in nature and there is no specific allegation inrespect of each of the Petitioners/Accused Nos.1 to 12, attracting the alleged offences, muchtheless punishable U/Secs 354 (B) and 324 of IPC.

The individual acts of each of the Petitioners is to be established during the course of Investigation and Trial, on recording the evidence.

12. As per as the materials on record, the Petitioners are charged with the offences punishable U/Secs. 143, 147, 148, 323, 324, 354 (B), 504 and 506 R/W Sec. 149 of I.P.C. Except, Sections 354 (B) and 324 of I.P.C., all the other offences alleged are bailable in nature. Though the alleged offences punishable *U/Secs 354 (B) and 324 of I.P.C. are non-bailable*, but they are neither exclusively punishable with death, nor with imprisonment for life. Further the alleged offences are triable by the Judicial Magistrate First Class.

13. On the basis of the materials available on record, it is seen that, the I.O. has carried out Panchanama and has secured the Statements of some of the witnesses. The learned P.P. submits that, yet Statements of some of the witnesses are to be recorded; materials are to be secured. *And further he would contend that, if the Petitioners are released on bail, they may again approach the Complainant and raise further quarrels with him and his family members; they may tamper the Prosecution witnesses; and may flee from justice. Such apprehension of the Prosecution can be satisfied by imposing necessary and stringent conditions.*

14. Looking to the nature of the allegations made against the Petitioners in the Complaint by the Complainant; the gravity of the offences to be attracted on the basis of such allegations;

allegations made in the Complaint are to be established at the time of Trial; and involvement of the Petitioners in the Crime is a matter of Investigation and of Trial. Under these circumstances, I am of the considered opinion that the Petitioners/Accused Nos.1 to 12 are entitled for grant of Anticipatory Bail, subject to certain conditions.

*Hence, **I ANSWER POINT NO.1 IN THE AFFIRMATIVE.***

15. POINT No.2:

For having answered Point No.1 in the Affirmative, I proceed to pass the following:

ORDER

Bail Petition filed by the Petitioners/Accused Nos.1 to 12 in Aasikere P.S. Crime No.25/2024 U/Sec 438 of Cr.P.C. is hereby Allowed.

In the consequences, *in the event of arrest of the Petitioners/Accused Nos.1 to 12 in Arasikere P.S. Crime No.25/2024 registered for the offences punishable U/Sec.143, 147, 148, 323, 324, 354 (B), 504 and 506 R/W Sec. 149 of I.P.C. they shall be released on bail, on their executing Personal Bond for a sum of **Rs.30,000/- each** with one surety for the likesum, subject to the following conditions:*

The Petitioners/Accused Nos.1 to 12 shall-

- 1) not tamper, or allure with any of the prosecution witnesses, in any manner;*

- 2) *surrender before the I.O., on or before 20.04.2024;*
- 3) *mark their attendance before the I.O., on the 1st Tuesday of every month, in between 10:00 a.m. to 5:00 p.m., till filing of the Final Report;(***Except Petitioner Nos.3, 4, 7, 9 and 11, as they are ladies***)*
- 4) *co-operate with the I.O., for Investigation, as and when required;*
- 5) *appear before the Trial Court on all hearing dates, without fail;*
- 6) *not indulge in same and similar offence, failing which, order shall be cancelled; and*
- 7) *produce their present Identity size Photographs alongwith copy of their respective Aadhaar Cards to the I.O.*

(Return copy of C.D. to the learned P.P.)

(Dictated to the Stenographer directly on computer, typed and computerized by him, corrected and signed by me and then pronounced in the open Court on this the 06th day of April, 2024).

**(ABDUL-RAHIMAN. A. NANDGADI),
III ADDL. DISTRICT & SESSIONS JUDGE,
BALLARI, (SITTING AT HOSAPETE).**

*(Order pronounced in the open Court
vide separate order)*

ORDER

***Bail Petition filed by the Petitioners/
Accused Nos.1 to 12 in Aasikere P.S. Crime
No.25/2024 U/Sec 438 of Cr.P.C. is hereby
Allowed.***

In the consequences, in the event of arrest of the Petitioners/Accused Nos.1 to 12 in Arasikere P.S. Crime No.25/2024 registered for the offences punishable U/Sec.143, 147, 148, 323, 324, 354 (B), 504 and 506 R/W Sec. 149 of I.P.C. they shall be released on bail, on their executing Personal Bond for a sum of ***Rs.30,000/- each*** with one surety for the likesum, subject to the following conditions:

The Petitioners/Accused Nos.1 to 12 shall-

- 1) not tamper, or allure with any of the prosecution witnesses, in any manner;*
- 2) surrender before the I.O., on or before 20.04.2024;*
- 3) mark their attendance before the I.O., on the 1st Tuesday of every month, in between 10:00 a.m. to 5:00 p.m., till filing of the Final Report;(Except
Petitioner Nos.3, 4, 7, 9 and 11, as they are ladies)*

- 4) co-operate with the I.O., for Investigation, as and when required;
- 5) appear before the Trial Court on all hearing dates, without fail;
- 6) not indulge in same and similar offence, failing which, order shall be cancelled; and
- 7) produce their present Identity size Photographs alongwith copy of their respective Aadhaar Cards to the I.O.

(Return copy of C.D. to the learned P.P.)

**(ABDUL-RAHIMAN. A. NANDGADI),
III ADDL. DISTRICT & SESSIONS JUDGE,
BALLARI, (SITTING AT HOSAPETE).**