

KABG010047762024



**IN THE COURT OF THE III ADDL. DISTRICT AND SESSIONS
JUDGE, BELAGAVI**

(Special court to try the offences under SC/ST (POA) Act)

PRESENT

**Shri. Chennappa Gouda
B.A., LL.B. (Hons.),
III Addl. District and Sessions Judge,
BELAGAVI.**

Dated this the 25th day of September, 2024

Spl.Case No.327/2024

1. Sumeet Sham Narute,
Age: 27 years, Occ: Agrl.,
2. Kuntinath Janagouda Shiraguppe,
Age: 46 years, Occ: Agrl.,
3. Ajit Babu Gadeppakhot,
Age: 55 years, Occ: Agrl.,
4. Shubham Mahaveer Koruche,
Age: 28 years, Occ: Agrl.,
5. Sunil Gundu Karadage,
Age: 51 years, Occ: Agrl.,

All are R/o Shamanewadi village,
Tq.Chikodi, Dist; Belagavi.

..Accused No.6,9,12,13 & 16

(By Shri.R.C.Patil, Advocate)

5. Sheetal Annasaheb Khot @ Ammannavar,
Age: 49 years, Occ: Agrl.,
R/o Shamanewadi village,
Tq. Chikodi, Dist: Belagavi.

..Accused No.11

(By Shri.R.C.Patil,/Shri.P.P.Janaj, Advocate)

- Vs-

1. The State of Karnataka
Represented by P.P.,
Through Shahapur P.S.,

(By Special Public Prosecutor)

2. Shri.Manjunath Suresh Kamble,
Age: 49 years, Occ: Agrl.,
R/o Shamanewadi village,
Tq.Chikodi, Dist: Belagavi.

.....Respondents

(Shri.G.K.Kamble, Advocate)

: ORDER ON BAIL PETITION FILED BY THE PETITIONER
U/SEC. 439 OF CR.P.C.

The accused No.6,9,11,12,13 & 16 have presented this petition under Section 439 of Cr.P.C., Section 483 of Bharatiya Nagarika Suraksha Sanhita, for grant of regular bail in Cr. No.50/2024 of Sadalaga Police Station for the offences punishable under Sections 354(B), 427, 504, 506, 143, 147, 295, 323 of Indian Penal Code and Sec. 3(1)(r)(s), 3(2)(va) of SC/ST POA Act 1989 Amendment Act, 2015.

2. In the bail petition, the accused persons have contended that the allegations made in the complaint are all false and accused No.6,9,11,12,13 & 16, they have not taken any part in committing the said alleged crime. The entire allegations made in the complaint are hollow, baseless and are not backed up any iota of evidence but are politically motivated allegations. The accused persons are no way connected to the crime, there is no single evidence against them. The allegations made by the complainant are all on the basis of what he has heard from his father and not as personally seen by him. Therefore, prima facie, the entire complaint is hearsay and therefore the accused persons are entitled for regular bail. The allegations against accused persons do not attract the ingredients of alleged crime.

The accused persons are not involved directly or indirectly in the crime. The accused persons The accused persons are doing agricultural work, they are only male earning members in their respective families. The whole family of respective accused persons is depending on the earnings of accused persons. The mother of accused No.11 is old aged and bed ridden and he should bail him to early treatment of his mother. The accused persons are the permanent residents of their address given the cause title and having movable and immovable properties. And hence, there is no chance of their abscond. The alleged offences are even though non bailable and not punishable with death of imprisonment for life. Now, the investigation is completed and IO has collected statement of all the witnesses, further custodial interrogation is not necessary. They are ready to abide by any of the conditions that may be imposed by this Court. Hence, prays for grant of regular bail.

3. On the other hand, the learned Public Prosecutor has filed objections to the bail petition by contending that, on perusal of the prosecution papers there is a strong prima-facie case against accused persons, the alleged offence against the accused persons is heinous in nature. Sec.354(B) of IPC is non-bailable in nature. The investigation officer has visited the place of the incident, conducted Mahazar and collected the materials

which are use for commission of offence and completed investigation. If the accused persons are granted regular bail, there are chances of absconding, tampering with prosecution materials and threatening the prosecution witnesses and make hurdle to the trial, hence, the accused persons are not entitled for bail. The objections is part and parcel of the case. Among other grounds, he has prayed for rejection of the bail petition.

4. The notice of this bail petition to the first informant who is respondent No.2 herein came to be personally served. He is appeared on behalf of accused persons, and filed objections contending that, the accused persons have committed the heinous offence. On perusal of copy of FIR, charge sheet and other materials on record, it prima-facie shows that, the accused persons have involved in the alleged crime. If they are released on bail, they may tamper the prosecution witnesses and they may commit similar offences. Hence, prays to reject the petition.

5. This court has heard arguments on both sides and perused records carefully.

6. The points that arise for my consideration for the decision of these petitions are as under:-

1. Whether the accused No.6,9,11 to 13 and 16 are entitled for a grant of regular bail as prayed for?
2. What order ?

7. My answer to above points is as under:

Point No.1: In the Affirmative;

Point No.2: As per final order for the following:

REASONS

8. POINT No.1: I have carefully gone through the contents of bail petition, objections, FIR, charge sheet, complaint allegations, records and other reports. The respondent No.1 police have registered criminal case against the accused persons as per FIR offences.

9. It is the specific case of the prosecution that, one Manjunath Suresh Kamble, has filed complaint on 15.4.2024 alleging that, he is resident of Shamanewadi village and is the President of shamanewadi Gram Panchayat. He states that, on 14.4.2024, the Dalit community of Shamanewadi village including the complainant held the celebration of 133th Jayanti of Vishwaratna Dr.Babasaheb Ambedkar at Shamanewadi Gram panchayat and the people of the community had gathered for the said celebration. He further states that, according to their customary practice, Bhim Jyoti was also being brought from Mangaon village, Maharashtra. Accordingly, on 14.4.2024 at 8.30 a.m., Bhim Jyoti was brought from mangaon to Shamnewadi via Bedakihal circle.

10. It is further alleged that, when the Jyoti arrived at Shamanewadi bus stand about 15 Bhim Sainiks out of their enthusiasm lit fire crackers and the persons belonging to upper caste namely, Raju Dhanpal Bendwade @ Naganve and Kumar Dada Magadum started abusing the Bhim Soldiers on their caste in filthy language and have attempted to disturb the peaceful environment of the village. The complainant further states that, seeing this, the complainant along with elders of his caste approached the elders of the said persons' community and had

cleared the fright and had concluded the ceremony as it was planned.

11. It is further alleged by the complainant that, on the same day at about 7.00 p.m., his father Suresh Kallappa Kamble called on phone and informed him that, the upper caste community persons by name (1) Deepak Balasaheb Khot (2) Chetan Babasaheb Khot, (3) Sachin Balasaheb Khot, (4) Rohan Dadd (6) Sumeet Sham Narote (7) Dhiraj Bharat Khot (8) Tushar Shinde (9) Kuntu Shiraguppi (10) Jetu Annasaheb Bendwad (11) Sheetal Ambirash Khot @ Ammannavar (12) Ajit Gadepaa Khot (13) Shubham Kurachi (14) Nitin Tapakir (15) Sinappa Gundu Somankhot (16) Sunil Dhang (17) Uday Shinde (18) Tatayasaheb Bendwad (19) Kumar Dada Magadum (2) Raju Dhanpal Bendwad @ Ngaon, together had come in order to destroy the community and further informed that, Deepak Balasab Khot, Chetan BabasabKhot have assaulted him and Geeta Suresh Kamble and have torn their clothes and said accused went to the house of Raju Gopal Sanadi and broke their gate and destroyed 02 schooties and 04 honda motor cycles parked there. It is further alleged that, the accused persons went to the stage put up for the celebration and alleged destroyed the Buddha statue and have dishonoured Dr.Ambedkar's photo by throwing it

down and stamping it with their feet. It is further alleged that, the said accused persons assaulted Shanakka Maruti Kamble, Swapna Ashok Kamble and Vidya Sanjay Malage with hands and have torn the blouse and torn the mangalsutra. Further the said accused persons assaulted Kiran Ashok Kamble and Rahul Raju Malage by throwing them down. Seeing this Jamana Maruti Kamble, Ranjana Sukumar Yadav, Devaki Arun Kamble, Alka Shridhar Kamble, meenaxi Sanadi and Uma Arun Kamble together tried to save the above persons, however, the accused persons being more powerful, the accused persons assaulted those ladies too.

12. It is further alleged that, on receiving the information from his father, when the complainant called Sadalaga Police Station and informed them about the incident, the accused persons abused him on his caste and gave life threat to him. Hence, the complaint.

13. On the basis of the complaint, case is registered against the accused persons in Sadalaga P.S.Crime No.50/2024 for the offences punishable under Section 354(B), 427, 506, 504, 143, 147, 149, 295, 323 of IPC and Sec. 3(1)(r)(s) & 3(2)(va) of SC/ST (POA) Act, 1989, the said Sadalaga P.S., has filed charge

sheet in Spl.Case No.327/2024 for the alleged offences against accused No.6,9,11 to 13 & 16. Accused No.11 voluntarily surrendered on 12.9.2024 and accused No.6,9,12,13 and 16 are also voluntarily surrendered on 17.9.2024. They were taken to Judicial custody and they were sent to J.C.

14. The counsel for the accused persons have argued that, the accused persons filed bail application u/s. 438 of Cr.P.C., in CrI.Misc.No.520/2024 the same was rejected by this Court on 3.5.2024. Aggrieved by the said order the present petitioners and other accused persons have challenged before the Hon'ble High Court of Karnataka, Dharwad Bench, its CrI.Apl.No.100237/2024 the same was rejected on 11.6.2024. Further argued that, the investigation officer completed the investigation and filed charge sheet. After filing charge sheet, these petitioners are filed anticipatory bail before this Court in CrI.Misc.No.783/2024 dated 6.7.2024 which came to be rejected by this Court. This order challenged by the accused persons in High Court of Karnataka, Dharwad Bench in its CrI.Appeal No.100423. Before disposal of above mentioned appeal the accused persons have voluntarily surrendered before this Court. Hence, the present accused persons have filed not pressed memo before the Hon'ble High Court of Karnataka. By

considering the memo filed by the present accused persons, the Hon'ble High Court of Karnataka dismissed the appeal against the present accused persons. Since, the date of voluntary surrender accused No.6,9,11 to 13 & 16 are in JC. Since the date of custody the IO has not sought PC custody for further investigation. It shows that, accused persons no more required for custodial interrogation. The accused No.6,9,11 to 13 & 16 being agriculturist, having age old parents. If this court rejected the bail petition their family will be suffered. Sec. 354(B) and Section 295 of IPC and Sec. 3(1)(r)(s) of SC ST Act, are non-bailable in nature, other offences are bailable in nature. Sec. 354(B), 295 of IPC and Sec. 3(1)(r)(s) of SC ST Act are though non-bailable, but not punishable with death or imprisonment for life. The accused persons are ready and willing to furnish tangible surety to the satisfaction of this court, and also willing to abide with the terms and conditions to be imposed on them. Hence, prays to allow the petition.

15. On the other hand, the learned Spl.Public Prosecutor argued that, the alleged offences are non bailable and heinous in nature. On perusal of the charge sheet, there is a prima facie case against the accused persons. On careful perusal of the statement of the material witnesses , Victim by

name Vidya Sanjay Malage, in her 164 statement stated about the alleged assault and outrage of modesty. Victim Ranjana also stated about the atrocity and submitted that, the alleged incident took place. The accused persons have already preferred the Crl.Misc.No.520/2024 and Crl.Appeal before the Hon'ble High Court of Karnataka, same were rejected by both the courts. These are the successive bail petitions, under no change of circumstances. Hence, prays to reject the bail petition.

16. Further argued that, there is a criminal antecedent against the accused persons. There are several cases pending against the accused persons in different Police Station. Under such as a circumstances, if this Hon'ble court the accused persons are released on bail, there is likelihood of their fleeing away from the course of justice and the said accused persons may tamper with the prosecution witnesses or cause threat or undue influence on him and that there are prima-facie materials available against theses accused persons to attract the offences alleged against them.

17. I carefully gone through the documents produced before this court i.e. the complaint, charge sheet, FIR and objections, it is clearly discloses that initially FIR was registered

on 14.04.2024 against the accused persons. After completion of investigation, investigation officer filed charge sheet. On perusal of the charge sheet paper produced by the accused persons, it reveals that these accused persons are arrayed as accused No.6,9,11 to 13 and 16 in Spl.Case No.327/2024. The present accused persons have filed Crl.Misc.No.520/2024 the same was rejected by this Court on 3.5.2024. Aggrieved by the said order the present accused persons and other accused persons have challenged before the Hon'ble High Court of Karnataka, Dharwad Bench, its Crl.Apl.No.100237/2024 the same was rejected on 11.6.2024, on the ground that, investigation yet to be completed. At this stage, accused persons are not entitled for anticipatory bail.

18. Now, the investigation officer completed the investigation and filed charge sheet. After filing charge sheet, these petitioners are filed anticipatory bail before this Court in Crl.Misc.No.783/2024 dated 6.7.2024 which came to be rejected by this Court. Thereafter, this Court issued NBW to the accused persons. On 12.9.2024, the accused No. 11 voluntarily surrendered before this Court. He is taken to Judicial Custody and he remanded to Judicial Custody. On 17.9.2024, accused No.6,9,12,13 and 16 are also voluntarily surrendered before this

Court. They have also taken to Judicial Custody and they are remanded to Judicial Custody. In the instant case, the Investigation Officer have not filed any application for seeking PC custody of the accused No.6,9,11 to 13 & 16 for further investigation. It shows that, at this stage, IO is not interested to take accused persons for Police Custody for further investigation. Therefore, accused persons are not required for further investigation. Since, the date of surrender, till today the accused No.6,9,11 to 13 & 16 are in J.C.

19. On the other hand, the accused persons are doing agricultural work and they are the only earning members in their family. It is further noted that, the accused No.1 to 4, accused No.8, 10, 14,15, 18 to 20 are absconded. The said accused persons yet to appear before this Court. Moreover, this Court granted regular bail to the accused No.5 and 17 in Crl.Misc.No.1033/2024. The allegation against the present accused persons and accused No.5 and 17 are similar in nature. They are also entitled regular bail on the grounds of principles of parity.

20. Further more, the entire allegations made by the complainant against the accused No.6,9,11 to 13 & 16 cannot be

inferred at this stage since the entire case of the prosecution requires proof at the time of trial. At this stage, the court cannot conduct mini trial.

21. Moreover the accused No.6,9,11 to 13 & 16 are permanent resident of the address mentioned in the cause title and they are ready to co-operate with the investigation whenever called upon them for interrogation. At this stage, the accused No.6,9,11 to 13 & 16 have made change of circumstances to file successive bail petitions. The accused No.6,9,11 to 13 & 16 are ready to offer surety to the satisfaction of this court and they are ready to abide by the conditions imposed by this court. The apprehension of the prosecution can be met by imposing stringent conditions. Taking into consideration the facts and circumstances of the case and gravity of the offences, I am of the view that, the accused No.6,9,11 to 13 & 16 are made out valid grounds to allow this petition. Accordingly, I answer point No.1 in the Affirmative.

22. Point No.2: In view of my findings of point No.1, I proceed to pass the following:

ORDER

The bail petition filed by the accused .No.6,9,11 to 13 and 16 U/Sec. 439 of Cr.P.C. is hereby allowed.

The accused No.6,9,11 to 13 and 16 are ordered to be released on regular bail in Cr. No.50/2024 (Spl. Case No. 327/2024) of Sadalaga police station for the offence punishable U/Sec. 354(B), 427, 506, 504, 143, 147, 149, 295, 323 of IPC and Sec. 3(1)(r)(s) & 3(2)(va) of SC/ST (POA) Act, 1989, on executing personal bonds for a sum of Rs.100,000/- each with one surety for likesum to the satisfaction of the court on the following:

: CONDITIONS :

1. The accused No.6,9,11 to 13 and 16 shall appear before this Court regularly without fail.
2. The accused No.6,9,11 to 13 and 16 should produce relevant documents of themselves and their surety before this court.
3. The accused No.6,9,11 to 13 and 16 shall make themselves available for interrogation by the Investigation Officer as and when required;

4. The accused No.6,9,11 to 13 and 16 shall not tamper and hamper the prosecution witnesses;
5. The accused No.6,9,11 to 13 and 16 shall not commit similar offence in future.

(Dictated to the Steno Grade I directly on on line, corrected and then pronounced and signed by me in the open court, on this the **25th day of September, 2024**).

(Chennappa Gouda)

III Addl. District and Sessions Judge,
Belagavi.