

Spl.C.03/2020

KABK010002652020



Presented on : 16-01-2020

Registered on : 16-01-2020

**IN THE COURT OF
IV Addl. District and Sessions Judge Bagalkot AT
BAGALKOT,BAGALKOT
Presided Over by SRI.KARAN GUJJAR**

SPL.C/3/2020

Complainant:

The State of Karnataka

Age: 45

Occupation :

Address: R/o Mudhol, Tq-Mudhol Dist-Bagalkot.

Advocate for Complainant: PUBLIC PROSECUTOR,

Advocate for Accused: appearing for Mallappa S/o Shivappa Huddar:

Advocate, appearing for 2, 3 respectively.

**Common Orders On Bail Applications Filed
Under Section 483 Of B.N.S.S Act 2023.**

The bail application of accused Nos.4- Girimallayya Ganachari & 9-Muttappa Hosur is filed on 15.06.2026, subsequently bail application of the accused No.10- Shrishail is filed on same date by Sri. R.T.H advocate. The bail application of accused No.1- Mallappa Huddar is filed on 18.06.2026 by the Sri. S.C.H Advocate. The bail application of accused Nos.5 to 8 namely Laxman Jakkannavar, Siddu @ Siddappa Nagareddi, Arun

Nagareddi & Kadappa Nagareddi respectively & accused 16-Kiran Nagareddi filed by Sri. R.T.H., Advocate on 02.07.2026. All the bail applications are filed under Sec.483 of BNSS seeking relief of Regular Bail.

2. Brief facts of the petition:

The respondent Police has registered the case against the petitioners in Crime No.160/2019 for the offences punishable U/Sec.143, 147, 148, 302, 120(B), 342 R/w. Sec.149 of IPC and U/Sec.3(2)(Va) of S.C/S.T (POA) Act, based on the first information alleging that previously as the complainant and his family members had lodged complaints against the accused, enraged by the same, all the accused by forming an unlawful assembly in prosecution of their common object, on 15.10.2019 at about 3:20 p.m., with a pre-plan, brought deadly weapons through car and motorcycle, knowing the family members of the complainant that they fully belong to Madiga community coming under scheduled caste, committed murder of complainant's elder brother namely Vithal Bharamappa Talageri and complainant's uncle namely Maliyappa Santappa Talageri. Wherefore, the complainant lodged a complaint before the jurisdictional Police Station.

3. The respondent-Police submitted the FIR and the

petitioners were arraigned as the accused persons and subsequently police filed the charge sheet as against accuse No.1, 14 & 15 and thereby left out the remaining accused persons from the said case on hand. It is stated in the petitions that there are absolutely no reasonable grounds to believe that the accused persons / petitioners had committed offences which are punishable with death sentence or life imprisonment. The petitioners are innocent of the alleged offences and they are falsely implicated in this case just to harass them and there no prima-facie materials to connect the petitioners with the alleged offences. It is further submitted that the police after the detailed investigation they submitted that these petitioners were not at all present in the alleged spot at the time of alleged incident and they all were in various places and on various work on the alleged date of incident and there is no evidence against them of their involvement in the case. Hence they were dropped from the charge sheet by the police authorities. And that there are no cogent, reliable and acceptable facts and circumstances and evidence in connection with the said offence against the petitioners. The petitioners are permanent resident of Shirol village of Mudhol Taluka and they have both movable and immovable properties at their instance and they are not persons

to abscond away from the jurisdiction of this court. They are ready to abide by any conditions that may be imposed by this Court for their release on their respective bails. Hence, prays to allow the bail petitions.

4. The Special P.P has filed objections individually to all the bail applications filed by all the accused petitioners, contending inter-alia that the offence alleged against the above accused persons is heinous crime of double murder in the small village. Further submitted that the concerned sections mentioned in the crime are punishable with death penalty or imprisonment for life, so it is cognizable and non-bailable offence. Further submitted that prior to this case the above mentioned accused in mob assaulted the complainant and his family members and they molested women and children and gave life threat to complaint and his family members and damaged the properties. Further submitted that after the crime is registered in Spl.Case.No.54/2019 and Spl.Case No.55/2019, in both cases they were released on bail and violated bail conditions with malicious intention in retaliation they committed double murder. It is submitted that the above named accused persons were not arrested from the crime of double murder to till date of their arrest, even though their names are forthcoming in FIR. They

had escaped from the arrest from the crime stage and they were left out from the charge sheet. Supporting this the prior incident of life threat and damage of the house and conviction in those case makes prima-facie case against these accused to arrest but it was not made. They already enjoyed the liberty of freedom and life since from 6 years of the incident. The question of liberty will not arise again if bail is granted in this application it may lead to misuse of the process of law. It is submitted that, in both cases they were released on bail and violated bail conditions, with malicious intention in retaliation they committed double murder of the complaint brother Vital Talageri and his uncle Mallyappa Talageri. In both the cases they were convicted. It shows criminal antecedents of the accused if they are released on bail they may again misuse the process of law and create the caste violence in the village. It is submitted that, the Hon'ble supreme court in **Neeru Yadhav Vs. State of UP and Anr. (2016)15 SCC 422**. The Hon'ble S.C has given the clear guidelines to the courts while granting the bail. In this case in para 13, "It is an established fact that a crime though committed against an individual, in all cases it does not retain an individual character. It, on occasions and in certain offences accentuates and cause harm to the society. The victim may be individual but

in the ultimate, it is the society which is the victim". This is the case of caste violence case which is affected largely in society by committing double murder of the persons who belong to SC Madiga community and the accused belong to Upper OBC caste and thereby committing this heinous double murder crime in small village in day light. The large society is harmed and scared considering this it is liable to reject the bail applications. It is submitted that 02 female child eye witnesses are in this case and out of that one child witness ought to lead the evidence, if the accused persons released on bail there is chance to tamper and intimidate the child witness and victimize them for life, so it is liable to reject the bail. It is further submitted that there is tension in the village the police have given protection by 24*7 & police deployed near complaint house and recently CCTV cameras are installed in their house to avoid further casualties. This itself shows there is life threat to the victim witnesses and the village, if they are released on bail and they may club together to cause any kind of tension of caste violence and disturb the peace and tranquility in the village. Hence prayed to reject the bail applications filed by top noted accused persons.

5. Heard the arguments from both side.

6. Now the points that arise for my determination are as

under:

- 1) Whether the petitioners have made out reasonable grounds to enlarge them on regular bail?
- 2) What order?

7. My findings on the above points as follows;

Point No.1: Partly in the affirmative.

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

REASONS

8. **POINT NO.1**: The above mentioned accused persons have filed individual applications U/Sec. 483 of BNSS, seeking relief of regular bail for the above mentioned offences. It could be seen that in the event of above petitioners found guilty on above charges, then in which case they are liable to be punished by way of Death sentence or Life imprisonment and even liable to pay fine.

9. That the petitioners have submitted they have nothing to do with the alleged complicity of the offence and they have been falsely implicated in the said case at the instance of the complainant and his ill-wishers. That there is no prima-facie case made out against them and they are innocent persons and they have got a good defence in their case.

10. The petitioners further submits that they hail from respected family. If the bail is denied to them, it may adversely impact their mental condition and may even turn them into a negative element. The petitioners further undertake that they would abide by the conditions that would be imposed by this Court of law and would not commit any act contrary to law. Hence, prayed to release them on bail.

11. Per-contra, the prosecution submitted that there is prima-facie case made out as against the above petitioners in the said case and punishment prescribed for the above said offence is with Death sentence or Life imprisonment. The petitioners are not law abiding persons and would violate the bail-bond provisions of law. That the petitioners might flee-away/ abscond from the jurisdiction of this Court without being regular to the proceedings, at every date of hearing, thus rendering the trial as infructuous one. The prosecution further submits that, if they are released on bail, they would threaten the prosecution witness and also tamper the prosecution witness and the investigation being completed which reveals the prima facie case made out against above accused petitioners. Further submitted the accused petitioners are prone to commit other offences as against the complainant and his family and their

release on bail is deleterious to the society at large. In all prayed to reject the bail application filed by these petitioners.

12. This Court, having gone through the separate 04 applications filed on behalf of the above-named accused petitioners, and having keenly perused the detailed objections filed by the learned Special Public Prosecutor appearing for the complainant in the case on hand, and after closely evaluating the arguments advanced on behalf of all the accused petitioners as well as the learned Special Public Prosecutor, proceeds to pass the following observation. Initially, it is the argument of Accused No.1 that he shall be released on bail pending trial. On perusal of the case papers, it appears that on 03 prior occasions this Court had dismissed the regular bail plea of the said Accused No.1.

13. At the present juncture, the learned Senior Counsel for Accused No.1, in the course of arguments, vehemently argued that at this time, on the ground of medical contingency, Accused No.1 be granted bail, and that he would totally abide by all the conditions that could be imposed by this Court in the present case on hand. However, this Court has gone through the medical documents and it appears that the accused is suffering from abdominal pain. The last report states that there is renal calculi.

With the easy understanding of this Court, it is nothing but formation of kidney stones. Further more as to the above ailment at what stage it is and what is the degree of pain has not been revealed even by the jail authorities and the medical fraternity. With what this Court has gathered from the records, this Court is of the opinion that it is not a matter of such gravity where Accused No.1 needs to be enlarged on bail on the above ground of medical contingency.

14. Further, the learned Counsel also brought to the notice of this Court that Accused No.1 has a family and minor children to be looked after, and since a long period of time he is in judicial custody. Hence, on the above count too, his bail plea be accepted in the interest of justice, and also in the interest of his family members. To this, the learned Special Public Prosecutor has vehemently argued solely on the ground that the medical contingency and the ailment are not so severe, and in which case bail cannot be granted in a casual manner.

15. The above arguments hold good, and this Court is also of the considered view that there is no change in the circumstances of the case as shown. Solely on the ground of medical contingency, and that too there being only normal suffering by the said Accused No.1, and the State having every facility to

address the health issues of Accused No.1, this Court is of the opinion that bail cannot be granted in a cavalier manner.

16. Further, having gone through all the case papers, the name of Accused No.1 along with the other accused persons was mentioned. He has also been charge-sheeted by the police authorities as Accused No.1. There are prima facie materials, and also with the various statements of the witnesses and with the deposition of PW-27, wherein she has invariably taken the name of Accused No.1 as to his involvement in the said offence.

17. It could be seen that this case is based on direct evidence and the Investigation of the case is completed. At this juncture there is no point in disbelieving the version of the prosecution in establishing prima-facie case as against A.1, 14 and 15. So, there being a prima facie case and the offence being heinous in nature, this Court at the present juncture thinks that if bail is granted, it may cause harm to the complainant as well as lead to disturbances in society at large. On these counts, the bail plea of Accused No.1 stands rejected by paying obeisance to the dictum laid down in the case of **Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav & Anr. reported in 2004 (7) SCC 528.**

18. Furthermore, the learned Counsel for Accused No.4 and Accused No.9, and subsequently the learned Counsel for Accused No.10, and thereafter on behalf of Accused Nos.5 to 8, and so-called Accused No.16, have filed bail applications seeking the remaining accused petitioners release on regular bail.

19. It was contended by the learned Counsel for the above-said accused petitioners that the complaint was filed against 13 persons, and that the police, in the course of its investigation, which as per the police officials was conducted fairly, filed the charge sheet only against Accused No.1, Accused No.14 and Accused No.15. It was further submitted that there were sufficient records available with the police authorities to hold that the remaining accused persons, including the present accused petitioners who have applied for bail at this juncture, had no involvement in the present case on hand. Being convinced of the same, the police authorities accordingly filed the charge sheet only against Accused No.1, Accused No.14 and Accused No.15, by dropping the above accused petitioners and others from the present case. Their names were shown in Column No.13 of the charge sheet as persons not charge-sheeted in the present case on hand.

20. Further submitted, this Court is bound to place reliance upon the police authorities, who are public servants, and this Court cannot take a divergent view against them. It was further brought to the notice of this Court that right from the inception of the case, the above accused petitioners and others who have been left out in the present charge sheet did not commit any acts against the complainant or against society at large.

21. It was also submitted that very recently, when PW-27 deposed her evidence, the names of the accused petitioners and others were taken. Being under shock, the accused persons were not present before this Court at that time. Subsequently, they voluntarily surrendered themselves before the Court and have now applied for the relief of regular bail.

22. In this context, it was vehemently and extensively argued that there is nothing on record against them to show that they played any role between the inception of the case and the stage at which they were dropped from the case, till the evidence of PW-27 was completed. With these submissions, it was prayed that the relief of regular bail be granted to them, subject to any conditions that this Court may deem fit, and it was stated that

they would comply with all provisions of law and abide by every conditions.

23. However, Further, the learned Special Public Prosecutor, in the course of arguments, vehemently and extensively argued that out of the present 09 accused petitioners who have applied for bail at this juncture, few of them were also involved in Special Case No. 54/2019 and Special Case No. 55/2019. In those cases, the said Special Court had convicted the accused persons and imposed fine along with a minimum of six months' imprisonment as per law. It was further submitted that due to the above-mentioned cases being registered by the complainant's family against a few of the accused petitioners, they subsequently committed the present offence on 15.10.2019. The learned Special Public Prosecutor thus contended that if the bail applications are allowed, they would be prone to commit subsequent offences against the complainant's family.

24. In support of her submission, Special P.P. relied upon the case of **Neeru Yadav vs. State of U.P. and Another**, reported in (2016) 15 SCC 422, and vehemently argued that there are certain criteria to be adopted by the Court while considering the

grant or rejection of regular bail. If the said parameters are not followed, then the Court cannot invoke its discretion to grant regular bail to the accused persons. However, this Court has in detail perused the said citation. The facts and circumstances in the said case are very much different from the present case on hand. Though the principles enumerated in the said case are of immense value, the same cannot be made applicable to the present case on hand.

25. As this Court has already rightly pointed out while rejecting the bail plea of Accused No.1 by invoking the case of **Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav & Anr. reported in 2004 (7) SCC 528**, the said principles are not getting attracted to the case of remaining accused petitioners namely, accused.4, 9 & 10 and 5 to 8 & 16. Further more, it appears to this court that the above-mentioned accused persons too do not come within the ambit of the principles laid down in **Neeru Yadav vs. State of U.P. and Another**, cited supra.

26. This Court further observes that out of the present accused petitioners, 05 persons were involved in Special Case No. 54/2019, namely Accused Nos. 5, 6, 7, 9 and 16. In the said case, the Special Court had convicted them and others with fine

and a minimum imprisonment of 06 months. Further, on a keen perusal of the records available with this Court, in Special Case No. 55/2019, 04 of the present accused petitioners, namely Accused Nos. 5, 7, 9 and 16, were convicted along with other accused persons. The Trial Court had punished them and others with fine and minimum imprisonment for a period of six months. This Court has also observed that the said offences were committed on the date 08.05.2019. Whereas the offence in the present case on hand was committed on 15.10.2019.

27. However, the contention of the learned Special Public Prosecutor that because of the 02 prior cases instituted against the accused persons, they subsequently committed the offence in the present case on hand, is not an acceptable version before this Court at the present juncture. Merely because a few of the accused petitioners and others were earlier punished with fine and minimum imprisonment of six months in the said cases, the same cannot be the yardstick or the parameter to be considered for rejecting the bail plea of the present accused persons. Moreover, there are 03 other accused petitioners namely accused No.4, 8 & 10 who did not have any role in Special Case No. 54/2019 and Special Case No. 55/2019. Further, their role in the present case on hand needs to be thoroughly adjudicated

during the course of present on going trial. The existence of prior cases which ended in conviction will not come to the rescue of the prosecution so as to decline the bail relief to the remaining accused petitioners herein above mentioned.

28. Another factor to be considered by this Court at the present juncture is whether to place reliance upon the final report filed by the police, wherein only Accused No.1, Accused No.14 and Accused No.15 were charge-sheeted and made to face trial. It is also to be considered whether the police acted diligently in conducting the investigation and whether they have filed a fair final report or not.

29. The subsequent question that arises is regarding the evidence adduced by PW-27, wherein she has stated that Accused No.1, Accused No.14, Accused No.15 along with others, and the present accused petitioners, also participated in the commission of the offence of killing 02 persons of her family. Further, on perusal of the statements given by the said witness and her sister Kavita under Section 161 Cr.P.C. before the police authorities, the police came to the conclusion that they had conducted an effective investigation and collected all necessary materials. The police were convinced that the present accused petitioners above mentioned, except Accused No.1, 14 & 15, did

not have any role to play. Being so convinced, they were left out in the charge sheet and their names were entered in Column No.13 of the final report.

30. In such circumstances, this Court is to decide whether the police final report is genuine or the version given by PW-27 is genuine. For the sake of argument, if the version of PW-27 as given in her evidence is held to be appropriate, and if at all there is corroboration from her statement given before the police under Section 161 Cr.P.C., then in that case the overt acts attributed to the present accused persons, namely Accused No.4, Accused No.9, Accused No.10, Accused Nos.5 to 8 and Accused No.16, are concerned — her evidence is silent. Her statement under Section 161 Cr.P.C. is also silent to bring them within the ambit of Section 302 IPC.

31. Such being the case, and this Court believing in the ideology that "bail is the rule and jail is the exception", and further considering that from the date of institution of the present case till the completion of evidence of PW-27, there are no ill-motivated acts attributable to the above-said accused petitioners who were left out in the charge sheet. With the above observations and placing reliance on the above dictums, this Court makes up its mind to grant the relief of regular bail

exclusively to Accused No.4, Accused No.9, Accused No.10, Accused Nos.5 to 8 and Accused No.16, subject to stringent conditions. The various contentions of the prosecution have also been considered. With this, Point No.1 is partly answered in the affirmative holding that accused No.1 is not entitled to the relief of regular bail whereas the other accused petitioners namely A.4, 9 & 10 and 5 to 8 and 16 are entitled to the relief of bail

32. While passing orders on the various bail pleas of the above-mentioned accused persons, this Court has made every endeavor to ensure that no observation is made on the merits of the case. Any observations made here in above are strictly confined to the consideration of the bail pleas of the accused persons and the objections of the prosecution for the limited purpose of determining whether or not they are entitled to the relief of bail. Further this court observes that the matter is pertaining to the year 2020 and this court shall strive to dispose the same in a minimum of span of 04 to 06 months and that all the counsels shall render their due co-operation for the disposal of the said case on hand.

33. **POINT NO.2:** In view of my discussion on the above point, I proceed to pass the following.

Common Order

The application filed by the petitioner / accused No.1 U/Sec.483 of BNSS is hereby rejected.

The separate applications filed by the petitioners / accused Nos.4 & 9 and 10 and 5 to 8 & 16 U/Sec.483 of BNSS is hereby allowed on the following conditions:

1. The accused persons should attend the court regularly on all hearing dates without fail.

2. The accused persons are directed to execute personal bond for Rs.5,00,000/- each and two sureties for the like sum.

3. The petitioners shall appear on every fortnightly on Saturday's between 11.00 AM to 03.00 PM and to put their attendance before the I.O. without fail, till the completion of the trial.

4. The petitioners shall not visit the vicinity of the complainant and their family, so also the accused petitioners are refrained to enter the village of the complainant and his family till the

disposal of the case on hand unless permitted by this court to do so in the event of emergency situation.

5. The accused persons shall refrain themselves from committing any offences as against the society at large. Failure to comply with the above conditions the prosecution as well as the complainant is at liberty to file bail cancellation application.

(Directly dictated to the Stenographer, typed by her, corrected, initialed and then pronounced by me in the open Court, on this the 08th day of July, 2026)

Sd/-

(KARAN GUJJAR)

IV Addl. District and Sessions Judge
& Special Judge, Bagalkot.