

KABK010002652020



**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.

VERSUS

Accused:

Mallappa S/o Shivappa Huddar

Age: 30

Occupation :

Address: Shirol, Tq-Mudhol.

2:Kadappa S/o Mallappa Muchchandi

Age: 0

Occupation :

R/o Shirol

Tq-Mudhol.

3:Kadappa S/o Jatteppa Muchchandi

Age: 0

Occupation :

Shirol

Tq-Mudhol

Advocate for Complainant: PUBLIC PROSECUTOR,
Advocate for Accused: appearing for Mallappa S/o Shivappa
Huddar: Advocate ,

appearing for 2,

3 respectively.

Order On Bail Application Filed
Under Section 483 Of B.N.S.S Act 2023.

The bail application of accused No.15 - Shankreppa S/o. Jatteppa Gudadinni is filed by Sri. A.B.J advocate. The bail application is 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 this petitioner was arrayed as the accused person 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 petition that there are absolutely no reasonable grounds to believe that the petitioner had committed offences which are punishable with death sentence or life imprisonment. The petitioner is innocent of the alleged offences and he is falsely implicated in this case just to harass him and there no prima-facie materials to connect the petitioner with the alleged offences. It is further submitted that the police after the detailed investigation they submitted that this petitioner / accused No.15 was not at all present in the alleged spot at the time of alleged incident and he was in other place on work on the alleged date of incident and there is no

evidence against him of his involvement in the case. Hence no charge sheet was filed against him. And that there are no cogent, reliable and acceptable facts and circumstances and evidence in connection with the said offence against the petitioner. The accused No.15 was arrested on 18.10.2019 and since from that date he is in judicial custody, that there is more than 07 years elapsed. That the I.O had dropped the proceedings against accused Nos.2 to 13 as there is no material against them, this fact itself reveals that the present complainant due to earlier disputes falsely implicated all the accused persons. This petitioner suffering from L3-L4: Fuse disc bulge compressing nerve roots his health is affected he is admitted in hospital for the same and he need day to day medical care. The petitioner is permanent resident of Toravi and he has both movable and immovable properties at his instance and he is not person to abscond away from the jurisdiction of this court. He is ready to abide by any conditions that may be imposed by this Court for his release on bail. Hence, prays to allow the bail petition.

4. The Special P.P has filed objections to the bail application filed by all the accused petitioner, contending inter-alia that the application filed by the accused is not maintainable at this juncture in the peak stage of trial for witnesses examination. Two

child eye witnesses yet to face trial. There is a prima facie case against him. The offence alleged against the above accused person 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 the P.M report is pursued clearly the act of the accused was inhuman and injuries sustained on both dead bodies speaks volume of cut wounds on both dead bodies and other material witnesses and punch and mahazar witnesses proves the gravity of the offence is inhuman, if he gets the bail his severity of criminal behavior is threat to the society and wrong message of justice may be cried out. This accused has taken major role in this crime involvement by taking supari (contract) from accused No.1. 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, 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 committed 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 person 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. 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 person.

5. Heard the arguments from both side.

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

1) Whether the petitioner has

made out reasonable grounds to
enlarge him on regular bail?

2) What order?

7. My findings on the above points as follows;

Point No.1: In the Negative.

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

REASONS

8. **POINT NO.1**: The above mentioned accused person has filed application U/Sec. 483 of BNSS, seeking relief of regular bail for the above mentioned offence. It could be seen that in the event of above petitioner found guilty on above charges, then in which case he is liable to be punished by way of Death sentence or Life imprisonment and even liable to pay fine.

9. That the petition has submitted he had nothing to do with the alleged complicity of the offence and he has 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 him and he is innocent person and he has got a good defence in his case.

10. The petitioner further undertakes that he 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 him on bail.

11. Per-contra, the prosecution submitted that there is prima-facie case made out as against the above petitioner and others in the said case and punishment prescribed for the above said offence is with Death sentence or Life imprisonment. The petitioner is not law abiding person and would violate the bail-bond provisions of law. That the petitioner 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 he is released on bail, he would threaten the prosecution witnesses and also tamper the prosecution witnesses and the investigation being completed which reveals the prima facie case made out against above accused petitioner. Further submitted the accused petitioner is prone to commit other offences as against the complainant and his family and his release on bail is deleterious to the society at large. In all prayed to reject the bail application filed by this petitioner.

12. This Court, having gone through the application filed on behalf of the above-named accused petitioner, 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 the accused petitioner as well as the learned Special Public Prosecutor, proceeds to pass the following observation. Initially, it is the argument of Accused No.15 that he shall be released on bail pending trial.

13. Further, having gone through all the case papers, the name of Accused No.15 along with the other accused persons was mentioned. He has also been charge-sheeted by the police authorities as Accused No.15. 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.15 as to his involvement in the said offence.

14. 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.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.15 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.**

15. Counsel for accused petitioner has taken the ground that much time period has elapsed and still the matter is not adjudicated upon and that the said accused No.15 is suffering from medical ailments which requires due treatment. This court has previously observed that it is the duty of this court to adjudicated upon the said matter as early as possible in a span of some 04 to 06 months and that the medical history of the accused No.15 does not appear to be filled with much gravity. Hence, both the contentions raised by the defence does not survive for consideration as the same does not hold any water.

16. Further the prosecution in support of her submission cited 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 person. 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 squarely made applicable to the present case on hand.

17. While passing orders on the bail plea of the above-mentioned accused, 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 plea of the accused and the objections of the prosecution for the limited purpose of determining whether or not he is 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.

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

Order

The application filed by the petitioner /
accused No.15 U/Sec.483 of BNSS is hereby
rejected.

Spl.C.03/2020

(Directly dictated to the Stenographer, typed by her, corrected, initialed and then pronounced by me in the open Court, on this the 11th day of September, 2026)

Sd/-

(KARAN GUJJAR)

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