

**IN THE COURT OF THE II ADDL. DISTRICT & SESSIONS
JUDGE, CHIKKABALLAPURA, SITTING AT CHINTAMANI**

Dated this the 4th day of December 2024

Present

Smt.NAGAVENI, B.A., LL.B.,
II Addl. District & Sessions Judge, Chikkaballapura,
Sitting at Chintamani.

S.C.NO.66/2021

Complainant:

State by Sidlaghatta Town Police.
(Represented by Public Prosecutor)

Vs.

Accused:

1. Kalandar Khan @ Kallu,
s/o Ibrahim Khan,
aged about 40 years,
r/at. Behind Axis Bank,
Near T.M.Hospital,
Sidlaghatta town,
Chikkaballapura District.

2. Damber Moula
s/o late Mustaf,
aged about 35 years,
1st TMC Layout,
Near Driver Saleem house,
Sidlaghatta town,
Chikkaballapura District.

3. Amith
s/o Govinda,
aged about 26 years,
r/at Pillechar Queatres,
Behind Cocoon market,
Sidlaghatta town.
Chikkaballapura District.

4. Raghavendra Prasad @ Raghu

@ Auto Raghu,
s/o Satyappa,
aged about 30 years,
r/at Pillechar Queatres,
Near Kadiri Yusof house,
Sidlaghatta town.
Chikkaballapura District.

5. Akshay @ Guli,
s/o Venkatesh,
aged about 21 years,
r/at Konganahalli village,
Venugopalaswamy temple road,
Chintamani taluk.
Chikkaballapura District.

6. Pavan
s/o Srinivasa,
aged about 22 years,
r/at Hulugummanahalli village,
Kaiwara post,
Chintamani taluk,
Chikkaballapura District.

7. Srinath
s/o Krishnappa,
aged about 21 years,
r/at Byeregollapalli village,
Patapalya hobli,
Bagepalli taluk.
Chikkaballapura District.

8. Roshan @ Chavand,
s/o Akbar,
aged about 22 years,
r/at 1st TMC Layout,
Crusent school,
Near Tammim house,
Sidlaghatta town,
Chikkaballapura District.

9. Rajesh
s/o late Krishna Murthy,

aged about 22 years,
r/at Felature quarters,
Ward No.14,
Sidlaghatta town.
Chikkaballapura District.
(Represented by Sri R.Chandrashekar,
Advocate for accused No.4 to 7, Sri B.Srinath, Advocate for A3)

ORDER ON BAIL APPLICATIONS FILED BY
ACCUSED NO.3 TO 7

Accused No.3 to 7 who are in judicial custody filed these applications under Section 483 of BNSS (Section 439 of Cr.P.C.) seeking for bail.

2. Accused No.3 is represented by Sri B.Srinath, learned counsel. Whereas the accused No.4 to 7 are represented by Sri R.Chandrashekar, learned counsel.

3. In the application of accused No.3 it is contended that he is innocent of the alleged offences, that the specific overt-act attributed against this accused is that he is the friend of accused No.1 and received supari to arrange accused No.1 to 4 to commit the offence, that the accused while in J.C. developed chest pain, if he remains in judicial custody for more period his condition would be critical, that he is the only son to aged parents and he was left with newly married wife who is facing mental agony in the absence of husband, that he is permanent

resident of the address mentioned in the cause title and ready to abide by the conditions that may be imposed by this court. On these grounds, the accused No.1 to 8 seek bail.

4. Accused No.4 to 7 contend that they are innocent of the alleged offences, that they are in judicial custody from 21.03.2021, Pw.2 and Pw.3 who are the eyewitness to the prosecution have been examined, that they undertake to abide by the conditions that may be imposed by this court, that there is no question of tampering or meddling with prosecution witnesses, that they are permanent resident of address shown in the cause title. On these grounds they seek bail.

5. Learned Public Prosecutor resisted the applications by contending the same set of facts. In the objections while reiterating the contents of F.I.R. and the charge sheet, contends that the offences are serious one and hence, accused persons are not entitled for bail. Accused persons are politically and financially powerful. If bail is granted they may threaten the witnesses not to speak and there is likelihood of accused persons destroying the evidence. On these grounds prosecution prays to reject the applications.

6. Heard both sides

7. Following points arise for my consideration:

- 1) Whether the accused No.3 to 7 make out grounds for enlarging them on bail?
- 2) What order?

8. My findings on the above points are as under:

Point No.1 : In affirmative.

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

REASONS

Point No.1:

9. Perused the records. The respondent police registered F.I.R. for the offences punishable under sections 302, 120-B read with section 34 of IPC on the report of one Mazid Nawaz (complainant), who is the brother of one Amzad Nawaz who is alleged to have been murdered.

10. Report discloses that the deceased Amzad Nawaz is a merchant. On 20.03.2021 he had been to supervise his house which is under construction. While returning in a two wheeler along with one Nawaz pasha, the accused persons came in a Maruthi omni car bearing registration No.KA 40 M 1633 from behind, dashed the two wheeler near Sidlaghatta Railway bridge. By this the deceased Amzad Nawaz fell down. Then the accused persons got down from the Maruthi omni,

assaulted him with axe. By this Amzad died.

11. Complainant thereafter refers to the incident of a past enmity between the deceased and the accused No.1 herein who happens to be his relative.

12. Accused persons are arrested and produced before the court along with a remand application. Now, it appears that the accused No.1, 2, 8 and 9 are already on bail.

13. The materials on record shows that the accused No.3 and 7 had contacted one Srinath s/o Krishnappa of Byresolapalli village in Bagepalli taluk and persuaded him to eliminate Amzad Nawaz. While determining a petition for bail, the court must take into consideration the gravity of the offences alleged, the impact made on the society either in granting or refusing the bail, possibility of implicating the accused falsely to settle the scores. It is also established principles of law that only seriousness of the allegation is not a decisive factor while considering a petition for bail.

14. At present, this case is posted for evidence and already six witnesses have been examined. Out of them Pw.2, Pw.3 and Pw.4 are not even identified the accused persons. So far as the accused No.3 to 7 are concerned, the

Investigating officer has recorded the statement of a witness who claims to have seen the incident. But, at present it appears that the witnesses examined have not deposed in accordance with their statements given before the Investigating Officer. Further as already stated about the remaining accused persons are already on bail. So, these accused persons are also entitled for bail in par with them. Further it would be appropriate to impose stringent conditions while granting bail. Hence, I answer the point under consideration accordingly.

Point No.2:

15. In the result, I pass the following:

ORDER

Bail applications filed by the accused No.3 to 7 under Section 483 of BNSS (Section 439 of Cr.P.C.) are hereby allowed.

Accused No.3 to 7 be enlarged on bail on their executing bond for Rs.1,00,000/- (Rupees one lakh only) each with two solvent sureties for like sum and subject to following:

CONDITIONS

- 1) They shall not get themselves involved in any criminal activities.
- 2) They shall not tamper with the prosecution witnesses.
- 3) They shall not leave the jurisdiction of the court

without prior permission.

4) They shall regularly attend the court on all hearing dates.

(Dictated to the Stenographer Grade-I directly on computer. Script thereof is corrected and then pronounced by me in the open court on this the 4th day of December 2024).

(NAGAVENI)

II Addl. District & Sessions Judge,
Chikkaballapura, Sitting at Chintamani.