

KACD010047872023



**IN THE COURT OF THE PRINCIPAL DISTRICT AND SESSIONS
JUDGE, CHITRADURGA.**

Present:

Smt. K.B.Geetha, M.A.LL.B.
Prl. District & Sessions Judge,
Chitradurga.

Dated this the 15th day of December, 2023.

Sessions Case No.97/2023

Complainant:- The State by Hosadurga Police Station
(By learned Public Prosecutor)

-VERSUS-

Accused:- M.S.Raju @ Rajashekhar and 2 others
(By Sri.P.M.Hanamantharaya, Adv.)

Applicant/

Accused No.1:- M.S.Raju @ Rajashekhar
S/o late Siddappa,
Age: 45 years, Occ: Agriculturist,
R/o Masanihalli Gollarahatti village,
Madadakere Hobli, Hosadurga Tq.
(By Sri.P.M.Hanamantharaya, Adv.)

ORDERS ON BAIL APPLICATION U/S.439 OF Cr.P.C.

The learned counsel for accused No.1 has filed this application U/S.439 of Cr.P.C., praying for release of accused No.1 on bail in this case.

2. It is stated in the bail application that since 18.7.2023 this accused has been in J.C. in this case for the offences punishable U/Ss.504, 323, 355, 506 and 307 r/w. Sec.34 of IPC. During crime stage, this accused had obtained anticipatory bail by this court on 28.11.2022 in CrI.Misc. No.1260/2022. There is no allegation in the complaint against this accused in respect of the offence u/S.307 of IPC. He has no intention or knowledge to take away the life of the complainant. The complainant has not sustained any grievous injuries or fatal injuries. The Investigating Officer has already completed the investigation and filed the charge sheet. Hence, this accused is not required for any further custodial interrogation.

There is no any criminal antecedent against this accused. This accused is an agriculturist and permanent resident of the address shown in the cause title of this petition. He is the only male earning member in his family and entire family members are depending upon his income. He is ready to offer surety for his due appearance. Hence, prayed for release of accused on bail.

3. The learned Public Prosecutor has filed objections to the bail application wherein, he stated the facts of the case in detail and the procedure of investigation. It is further stated in the objection to bail application that there is prima-facie case against the accused. If accused is released on bail, there is every chance of his abscondance from proceedings and tampering and threatening of prosecution witnesses. Hence prayed for dismissal of bail petition.

4. Heard arguments of both sides.

5. From the above facts, the point that arises for consideration is:-

“ Whether the accused No.1 is entitled for bail ? ”

6. Finding of this Court on the above point is in the **AFFIRMATIVE**, for the following:

REASONS

7. The complainant police has filed the charge-sheet against the accused alleging the offences punishable U/Ss.504, 323, 355, 506 and 307 r/w. S.34 of IPC. The maximum punishment for the aforesaid offence is life imprisonment and they are triable by this Court of Sessions.

8. The case of prosecution in nutshell is that, on 7.11.2022 about 3.30 p.m., the complainant had been to Hosadurga town for purchase of some kitchen items and after marketing, he was waiting for Bus near Merchant Petrol Bunk on Hiriyr road; at about 4.30 p.m., the accused persons suddenly came to him, out

of previous animosity, caught him, abused him by using filthy language as “ ಸೂಳೇ ಮಗನೇ ಬೋಳಿ ಮಗನೇ ”; regarding the panchayath that was held in the village; at that time, all the 3 accused persons assaulted him with hands and legs, torn his clothes, accused No.1 and 2 assaulted him with their footwear and accused No.3 caught him tightly, accused No.1 took out a blade, proclaimed of finishing him and with that intent, attempted to hit on his neck, but when he tried to rescue himself, said blow hit on his left eye and left side of the abdomen; then he raised hue and cry, his relative Shivalinga who was coming on that road, rushed to the spot, then all the accused persons went away from the spot by threatening on his life with dire consequences.

9. Already investigation is completed and charge sheet is filed as stated above. The injuries sustained by the complainant are simple in nature and there is no danger to his life.

10. The apprehension of the complainant and the learned Public Prosecutor could be safeguarded by imposing suitable and stringent conditions. Already accused was granted with anticipatory bail. But after service of summons, he could not appear before Trial Court and NBW was issued against him; then he voluntarily appeared before the court and then he was arrested on 18.7.2023. Since then, the accused is in judicial custody. The accused is not required for any custodial interrogation. Hence, the accused is entitled for bail in this case.

11. For the above reasons, this court holds that accused is entitled for bail with stringent conditions and thus, proceeds to pass the following:-

O R D E R

The bail application filed U/S.439 of Cr.P.C. on behalf of accused No.1 is hereby **allowed**.

Accused No.1 is released on bail on he executing self-bond for a sum of Rs.1,00,000/- with one surety for like sum with following conditions scrupulously:

1. He shall appear before the court on all dates of hearing without any excuse;
2. He shall not commit similar offences.
3. He shall not threaten or tamper with prosecution witnesses directly or indirectly.
4. He shall not leave the jurisdiction of Chitradurga district without prior permission of this court till disposal of this case.

If any of these conditions are violated, then the bail bond will be automatically cancelled.

(Dictated to the Stenographer Grade-I, transcribed and typed by her, corrected, print out taken, signed and pronounced by me in the open Court on this the 15th day of December, 2023.)

(K.B.Geetha)

Prl. District & Sessions Judge,
Chitradurga.

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