

**IN THE COURT OF THE II ADDL.DISTRICT AND  
SESSIONS JUDGE AT CHIKKMAGALURU**

**Present: Sri. Manjunath Sangreshi B.A.LL.B.[HONS.]  
II Addl. District & Sessions Judge  
Chikkamagaluru.**

**Dated this 06<sup>th</sup> day of November 2021**

**S.C.No.59/2021**

**Complainant :**

State by Kalasa Police

[Repd. by the public Prosecutor,  
Chikkamagaluru].

**V/s.**

**Accused :**

3. Santosha, S/o. Late Chandru,  
aged about 29 years, Labourer,  
R/o. Rambhapuri Math Colony,  
Balehonnure, N.R.Pura Taluk,  
Chikkamagaluru District.

[Repd. by Sri. H.H. Krishnamurthy  
Advocate]

**ORDER ON BAIL PETITION FILED U/S.439 Of Cr.P.C.**

The accused No.3-Santosha has filed this petition under section 439 of Cr.P.C. seeking the benefit of bail in connection with Cr.No.14/2021 [S.C.No.59/2021] of Kalasa Police and the

charge sheet has been filed against this accused and other for the offences punishable under section 9B(1) of Explosives Act and U/S. 4 and 6 of Explosives Substance Act.

2. The case of the prosecution is that there is property dispute pertaining to Sy.No.421 between CW.12-Abdul Aziz and accused No.1 and in order to give trouble to CW.1, that on 17.03.2019, the accused No.1 called accused No.3 i.e. petitioner here in through accused No.2 planned to destroy the properties of CW.12 with help of explosive substances and in this regard, on 21.03.2021 at about 10 PM., in the house of accused No.1, prepared the explosive substances and about 11.30 PM., accused No. 2 and 3 took the said explosives on the Scooty bearing No.KA-18/EF-0133 belonging to accused No.1 and kept the same in the terrace of CW.12 and thereby the accused have committed the offences alleged against them. Therefore, CPI of Kudaremurkha Circle has registered a complaint and based on the complaint, a case has been registered and after completion of investigation, the

charge sheet has been filed against this accused and others for the aforesaid offences. Since the date of arrest, the accused is in judicial custody. Hence, this petition.

3. In the bail petition, it is contended that the accused No.3 is innocent of offences leveled against him and he has not committed any such offence; he is falsely implicated in the case at the instance of his enemies. The alleged offences are not punishable with imprisonment for life or death sentence. The accused have got his family members to look after and he is the only bread earner of the family and accused is permanent resident of Chikkamagaluru District. The accused offers surety for his release on bail and will abide by any of the reasonable conditions that may be imposed by this Hon'ble court for his appearance before this Hon'ble court and accordingly, it is prayed for the benefit of bail.

4. The learned public prosecutor has filed her objections. She contended that there is a prima-facie case against the

petitioners. That the charge sheet materials make a specific case against the accused for having committed the alleged offences along with other accused persons. That the accused is politically and financially influential person as such there is every possibility of the accused absconding and possibilities of the accused tampering the case of the prosecution, if he is released on bail. Further, in the case the trial has not yet been begun. Therefore, as there is no valid grounds so as to release the petitioners on bail, the learned Public Prosecutor prayed this court to reject the bail petition.

5. For disposal of the bail petition, the following points arise for my considerations;

1. Whether the accused has made out sufficient ground for grant of bail U/S.439 of Cr.P.C. ?

2. What order ?

6. Having heard the arguments on both sides, my findings to the above points are as under;

Point No.1: In the Affirmative,

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

**REASONS**

7. **Point No.1**:- I have perused the charge materials and also took notes of the grounds urged in the bail petition.

8. In the case on hand, charge sheet has been filed. The charge sheeted offences are under sections 9B(1) of Explosives Act and U/S. 4 and 6 of Explosives Substance Act and the same are not punishable with imprisonment for life or death sentence. It is stated that the accused is in judicial custody since the date of his arrest. Further, in this case, the accused No.1, 2 and 4, who are similarly placed on par with this accused, have been already granted bail by the Hon'ble Prl.District and Sessions Judge Chikkamagaluru therefore, on the ground of parity also this accused is entitled for bail. Considering all these, at this stage, there is no impediment to grant bail to the accused.

9. It is settled position of law that the court while considering the bail petition, need not dwell upon the merits of the case or examine the veracity of the complaint allegations, as such an attempt by the court, would prejudice the case of either side in one way or the other during trial. In other words, only on the basis of the prima-facie materials on record the court has to decide whether to grant or reject the bail application. One of the considerations that has to be kept in mind by the court while granting bail is to ensure presence of the petitioner/accused before the court or investigation officer as and when necessary.

10. Further, in this case, the accused is the permanent resident of his given address and the possibilities of his absconding is too remote. On the other hand, the apprehension of the prosecution could be met by imposing stringent conditions on the accused. Considering the facts and circumstances of the case, this court is of the opinion that the accused has made out sufficient grounds for grant of bail to him. Accordingly, I answered the Point

No.1 in the *Affirmative*.

11. **Point No.2:** In the light of the above discussion, I proceed to pass the following order;

**ORDER**

The petition filed by accused No.3-Santosha under section 439 of Cr.P.C. is hereby allowed.

The accused No.3-Santosha is enlarged on bail in connection with Crime No.14/2019 [S.C.59/2021] registered for the offences punishable under section 9B(1) of Explosives Act and U/S. 4 and 6 of Explosives Substance Act., on execution of personal bond for Rs.1,00,000/- with one surety for the like sum, subject to the following conditions.

1. The accused No.3 shall appear before the court on all dates of hearing, without fail.
2. The accused No.3 shall not hamper the trial and shall co-operate with the trial.
3. The accused No.3 shall not tamper the prosecution evidence and shall not threaten the witnesses.

[Dictated to Typist, typed by her on computer, corrected by me and pronounced in open court on this 06<sup>th</sup> day of November 2021]

Sd/-

**[Manjunath Sangreshi]  
II Addl. District & Sessions Judge  
Chikkamagaluru.**

