

KACM010007112021



**IN THE COURT OF II ADDITIONAL DISTRICT AND
SESSIONS JUDGE AT CHIKKAMAGALURU**

Dated this the 03rd day of August, 2024

: PRESENT :

Sri. Guruprasad Kulkarni, B.A., LL.B (Hons)
II Addl. District & Sessions Judge
Chikkamagaluru

S.C. 59/2021

Complainant: State by Kalasa Police Station,
Kalasa.

(Rep/by the Public Prosecutor)

-V/s-

Accused: 3. Santhosha S/o Late Chandru,
Aged about 29 years,
Labourer,
R/o Rambapuri Math Colony,
Balehonnuru, N.R. Pura Taluk.

(Rep/by Sri. N.D., DCLADC,)

ORDER

This is a bail application filed by the accused No.3 under
Section 439 of Cr.P.C for enlarging him on bail.

2. BRIEF FACTS:

The accused has stated that the Kalasa Police have registered the case against him and others for the offences punishable under Section 9(B) (1) (b) of the Explosives Act and Section 4 and 6 of the Explosive Substances Act on the basis of false complaint. The accused has been granted bail by this court on 06.11.2021 and later released on 24.12.2021 on furnishing surety. Thereafter since the accused violated the conditions of bail, warrant was issued against him and was detained after securing him.

3. Thereafter at the stage of framing charge, the accused No.3 has filed this bail application contending that he is innocent of the offences alleged against him and he has been falsely implicated in the case. He is the only bread earner of his family. He is a permanent resident of Balehonnur, N.R Pura Taluk. There is no iota of evidence regarding his involvement in the alleged crime. He undertakes to attend the court regularly. The accused is ready to offer surety and to abide by the conditions imposed by the court in the event of his release on bail. With these grounds, it is prayed to allow the bail application.

4. Per contra, the Ld., Public Prosecutor has filed objections to this bail application contending that there is a prima facie case against the accused and reasonable grounds to believe that he has committed the alleged offences. The nature and gravity of the accusations does not permit that the accused be released on bail. The prosecution is apprehensive of the fact that in the event of accused being released on bail he would flee from justice and hamper the trial. The prosecution apprehends that the accused may threaten and influence the prosecution witnesses and also involve himself in committing similar offences if released on bail.

5. Heard both sides.

6. Following are the points that arise for my consideration:-

1. Whether the accused No.3 deserves to be enlarged on bail?

2. What order?

7. My answer to the above points is as under:

Point No.1: In the affirmative,

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

REASONS

8. **Point No.1:-** It is the case of the prosecution that the accused No.1 and CW.12 are in inimical terms with each other pertaining to the landed property. Therefore, on 17.03.2019, the accused No.1 along with accused Nos.2 and 3 in furtherance of common intention in order to cause harassment to CW.12 conspired to plant explosives on the terrace of the house of CW.12.

9. On 21.03.2019 the accused No.3 procured explosives such as gelatin packets, detonators, safety fuse from accused No.4 and on the same day at 11.30 p.m, the accused Nos.2 and 3 took said explosives in a scooty bearing registration No.KA-18/EF-0133 belonging to accused No.1 and planted the same on the terrace of the house of CW.12. The accused No.4 is alleged to have held in his possession the said explosives without any licence and illegally sold them to accused No.3.

10. In pursuance to the information, case was registered for the offences punishable under Section 9(B) (1) (b) of The Explosives Act, 1884, investigation was taken up and thereafter the Kalasa police having obtained the permission of the Deputy Commissioner, Chikkamagalur vide order dated 30.05.2020 and

charge sheet was filed against the accused Nos.1 to 4 for the offences punishable under Section 9(B) (1) (b) of The Explosives Act, 1884 and Section 4 and 6 of The Explosive Substances Act, 1908.

11. After committal accused No.3 was secured under body warrant and subsequently he has been granted bail by this court on 06.11.2021 and later released on 24.12.2021 on furnishing surety. During the course of trial, the accused has remained absent and therefore, NBW was issued against him and subsequently on 06.04.2024 the accused was secured and remanded to judicial custody. Since then he is under incarceration.

12. The records before this court is manifest that the accused No.3 has allegedly committed the offence of abetment. It is evident that the accused has no regards for the law and has abused the process of law by hampering the fair trial.

13. However, I find that the detention of the accused No.3 in judicial custody during the course of trial is not necessary. The accused No.3 has been irregular in attending the court which is highly objectionable. However he can be put to terms by imposing penalty for abusing the process of law.

14. Having considered the fact that the accused was already granted bail, merely owing to the fact that he has violated the conditions of bail by remaining absent before the court would not be a good ground to refuse the bail. The personal liberty of the accused holds paramount importance while granting or refusing bail. Therefore, in order to do substantial justice and to protect his individual liberty, the accused deserves to be enlarged on bail. Accordingly, I answer point No.1 in the **Affirmative**.

15. **Point No.2:-** For the aforementioned reasons, I proceed to pass the following;

ORDER

The bail application filed by the accused No.3 under Section 439 of Cr.P.C is hereby **ALLOWED** upon penalty of Rs.2,000/-.

The accused No.3 is enlarged on bail on execution of personal bond for sum of Rs.50,000/- along with a surety for the like sum subject to the following:-

CONDITIONS

1. The accused shall appear before the court on all the dates of hearing and shall not delay the trial.
2. The accused shall not tamper with the prosecution evidence nor threaten, influence or intimidate the prosecution witnesses.

3. The accused shall not commit similar offences and shall not involve himself in any sort of criminal act.

(Dictated to the Stenographer Grade-I typed by him, corrected and pronounced by me in the open court on this the 3rd day of August, 2024)

Guruprasad Kulkarni
II Addl. District and Sessions Judge
Chikkamagaluru