

KADW010030282022



**IN THE COURT OF PRL.DISTRICT & SESSIONS JUDGE,
DHARWAD.**

DATED THIS THE 18th DAY OF JUNE, 2024.

PRESENT
SMT. K.G. SHANTHI,
B.COM., LL.M.
PRL. DISTRICT & SESSIONS JUDGE, DHARWAD.

S.C. 79/2022

COMPLAINANT:

STATE by Sub Urban Police Station, Dharwad.
(By Public Prosecutor, Dharwad)

V/s

ACCUSED NO.1:

Mallikarjun s/o. Ramakrishna Hadapad.
Age 25 years, Occ: Coolie.
R/o. Mugad
Presently residing at Harijanakeri,
Kelageri, Dharwad.

(Accused No.1 is in judicial custody)
(By Sri. Ashok V. Enagi, Advocate)

**ORDERS ON THE BAIL APPLICATION OF ACCUSED
NO.1 U/S. 439 CR.P.C.**

This bail application is filed by accused No.1 under
Section 439 of Cr.P.C praying to grant regular bail to him in this
case.

2. The Sub Urban Police, Dharwad have registered the case against accused No.1 to 3 in Crime No. 95/2019 for the offences punishable under Sections 302, 120-B R/w Section 34 and after completion of investigation filed charge sheet against the accused persons, which was registered as SC No. 173/2019. In the said case, accused No.1 remained absent and inspite of issuance of NBW, his presence not secured. Therefore, as per the order of Court dated 19.10.2022, case against accused No.1 split-up and separate case has been registered, which is numbered as SC No.79/2022 i.e. present case. In this case, on 17.05.2024, accused No.1 was produced by executing NBW. Accordingly, accused No.1 was taken to custody and remanded to Judicial Custody. Now accused No.1 moved the present application for grant of bail.

3. Accused No.1 contended that he is an innocent, he has not committed any offence as alleged and he has been falsely implicated in the case. He further stated that the alleged offences are not punishable with death or imprisonment for life. Further contended that accused No.1 is no way concerned or connected to the alleged crime in question. It is stated that

since from the date of arrest i.e. from 17.05.2024, the accused No.1 is in judicial custody. It is further stated that due to detention of accused No.1 in judicial custody, his entire family members are frustrating like a fish out of water. It also stated that accused No.1 is ready and willing to furnish surety to the satisfaction of the Court and undertakes to appear before the Court on all the dates of hearing. Accordingly, pray for grant of bail.

4. The learned Public Prosecutor filed objections contending that earlier in SC No. 173/2019 accused No.1 was absconded, hence split up case was registered against him in SC 79/2022, wherein after issuing several NBWs and also after issuing proclamation and attachment warrant, the accused No.1 was arrested and produced before the Court. Further, there are prima facie materials to show the involvement of accused No.1 in the alleged crime. The alleged offences are punishable with death or imprisonment for life. At this stage, if accused No.1 is released on bail, there is every chance of his absconding and there is a chance of tampering the witnesses

of prosecution. With these reasons, the learned Public Prosecutor pray to reject the bail application.

5. I have heard the arguments.
6. The following points arise for my determination:-
 1. Whether accused No.1 is entitled for bail?
 2. What order?
7. My findings on the above points are as under:-
 - Point no.1:- In the Negative.
 - Point no.2:- As per final order for the following:-

REASONS

8. **POINT NO.1:-** It is the case of the prosecution that, accused No.1 obtained loan of Rs.1,00,000/- from deceased, with an assurance that the said amount will be paid in time. However, he did not pay the same within time. In this regard, there were quarrels between accused No.1 and deceased. Few days prior to the incident, deceased went to the house of accused No.1 and quarreled with his mother and younger sister and abused them in filthy language. In view of the said conduct of the deceased, accused No.1 hatched a plan to commit the murder of deceased.

9. It is further case of prosecution that, accused No.1 along with accused No.2 and 3 murdered the deceased on 27.07.2019 near Womens Hostel of Karnataka University, Dharwad, by assaulting him with clubs and thereby the accused No.1 to 3 have committed the offences punishable U/Sec.302, 120(B) R/w Sec.34 of IPC.

10. The records reflects that, on 02.08.2019 accused No.1 was arrested and produced before the committal Court. On 11.11.2020 accused No.1 was released on bail as per the orders of Hon'ble High Court of Karnataka, Dharwad Bench in Crl. Petition No. 101279/2020. Again accused No.1 remained absent before the Court on several hearing dates and several times NBW was issued against him. On 04.10.2021 accused No.1 was produced by executing NBW and he was remanded to judicial custody. Thereafter, accused No.1 filed bail application U/Section 439 Cr.P.C., which came to be allowed and he was released on bail by this Court on 23.12.2021. Thereafter also, accused No.1 remained absent from 12.07.2022 and inspite of issuance of NBW, his presence not secured. Hence, on 19.10.2022 this Court ordered to split up

the case against accused No.1. Accordingly, split up SC No.79/2022 has been registered against accused No.1.

11. In SC No.79/2022 also NBW, proclamation and attachment warrant have been issued against accused No.1, but his presence not secured. However on 17.05.2024 accused No.1 was produced before the Court by executing NBW. Since then the accused No.1 is in judicial custody.

12. The prosecution papers prima facie reveal that the accused No.1 along with accused No.2 and 3 has committed the murder of deceased. After obtaining the bail from the Hon'ble High Court and also from this Court, the accused No.1 remained absent and thereby caused hurdle for the trial. So, many proceedings were taken place. He has not only caused hurdle for early disposal of the case, but also wasted precious time of the Court as well as caused strain to the police officials to secure him.

13. By looking into the facts and circumstances of the case, I am of the opinion that there are prima facie materials to show the involvement of accused No.1 in committing the

murder of deceased along with accused No.2 and 3. The very conduct of accused No.1 reveals that he is in the habit of absconding. In my opinion, if accused No.1 is again released on bail, definitely it is very difficult for the Court to secure his presence for trial. At this stage, if bail is granted to accused No.1, there is every chance of his further absconding and causing hurdle to the trial. Under these circumstances, I am of the opinion that, it is not just and proper to grant bail to accused No.1. Accordingly, I answer point No.1 in the negative.

14. **Point No.2:-** For the reasons stated above, I proceed to pass the following:

ORDER

Bail application filed by accused No.1 Mallikarjun Hadapad U/Sec. 439 of Cr.P.C is hereby dismissed.

(Dictated to Stenographer Grade-I directly on Computer System, print out corrected and then pronounced by me in the open-Court on this the 18th day of June, 2024)

(K.G. SHANTHI)
PRL. DISTRICT & SESSIONS JUDGE
DHARWAD.