

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

DATED THIS THE 6th DAY OF DECEMBER, 2021.

PRESENT:

SRI. UMESH.M.ADIGA, B.Com. LL.B. (SPL),
PRL. DIST. & SESSIONS JUDGE, DHARWAD.

S.C.No.173/2019

COMPLAINANT :

The State of Karnataka by Sub Urban
P.S., Dharwad.

(By Public Prosecutor Dharwad)

V/s

ACCUSED :

1. Mallikarjun S/o Ramakrishna Hadapad,
Age: 24 years, Occ: Private work,
R/o: Mugad village,Tq: & Dist: Dharwad.

(By Sri. P.H.H./S.S.B., Advocates)

ORDER ON BAIL APPLICATION OF ACCUSED NO.1

Accused No.1 filed bail application under section 439
of Cr.P.C., for grant of bail, with following grounds:

That accused was released on bail. As per the orders passed by the Hon'ble High Court of Karnataka, Dharwad Bench, Dharwad. He was regularly appearing before the Court. On 09.09.2021, due to ill-health of his wife, who was admitted in the hospital, accused No.1 could not appear before the Court. Due to his absence, Court issued non-bailable warrant. On 04.10.2021 accused came to the Court to attend Court proceedings. He has arrested by the police in the Court premises and produced before the Court. The absence of the accused on previous dates of hearing was not deliberate, but due to reasons beyond his control. Henceforth, he will be attend the Court regularly and abide by the conditions. He will offer surety to the satisfaction of the Court. With these reasons, accused No.1 prayed to grant the bail

2. The learned Public Prosecutor has filed objection. Inter-alia contended that, application is not maintainable. The accused No.1 was irregular and did not appear before the Court on the date of hearing. The alleged offences are heinous in nature, which is punishable

with death or imprisonment for life. Hence, he is not entitled for bail. With these reasons learned public prosecutor prayed to reject the application.

3. I have heard the arguments of the learned advocate for accused and public prosecutor.

4. The following points emerge for my determination:

(1) Whether the accused No.1 is entitled for bail?

(2) What order?

5. My findings on the above points are as follows:

Point No.1 : In the Affirmative.

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

REASONS

6. **Point No.1:-** It is the case of the prosecution that, accused No.1 obtained loan of Rs.1,00,000/- from deceased, with assurance that said amount will be paid in time. However, he did not pay the same within time. In this regard, there are fights between accused No.1 and

deceased. Few days prior to the incident, deceased went to the house of accused No.1 and quarreled with mother and younger sister of accused No.1 and abutted them very badly. In view of the said conduct of the deceased, accused No.1 intended to murder him.

7. 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 accused No.1 to 3 have committed the alleged offences U/Sec.302 R/w Sec.34 of IPC.

8. The Investigating Officer during investigation has arrested accused No.1 and produced before the committal Court and he was remanded to judicial custody. The accused approached the Hon'ble High Court of Karnataka, Dharwad Bench, Dharwad, in CrI. Petition No.101279/2020. Hon'ble High Court of Karnataka, heard the matter and granted bail to accused No.1, on 15.10.2020 with certain conditions. On the basis of said

order, accused No.1 was released on bail, on furnishing surety.

9. This Court framed charges and partly recorded the evidence of PW.1 on 03.03.2021. Accused were absent on that day and hence witness were bounded over. Once again accused No.1 was remained absent on the adjourned dates. On 31.03.2021, NBW was issued against accused No.1. Thereafter, on 16.04.2021 accused No.1 surrendered to the Court and filed an application to recall the NBW and it was recalled. Again on 16.06.2021 accused No.1 remained absent. On 09.09.2021 accused No.1 was absent and no application was filed on his behalf, to dispense his presence before the Court. Hence, NBW was issued against accused No.1 and matter was posted on 04.10.2021. On 15.09.2021, the complainant-police arrested accused No.1 and produced before the Court and he was taken to the custody and remanded to the J.C., since then accused No.1 is in J.C.

10. Thereafter, accused No.1 filed this application for grant of bail. It is contended by the accused No.1, in Para No.3 of the bail application that, the accused No.1 was arrested on 04.10.2021, while he came to the Court to attend the case. Said contention is incorrect on the basis of proceedings in the order-sheet, he was not arrested on 04.10.2021, but was arrested and produced before the Court on 15.09.2021. Therefore, said fact is incorrect. It is also stated that on 09.09.2021, accused No.1 did not attend the Court, since his wife was not well and she was admitted in the hospital. Medical Certificate is produced along with memo dated: 09.11.2021, stating that, she was suffering from viral fever. The said certificate was given by doctor at Belagavi. According to the address of accused No.1, given in the charge-sheet, he is resident of Dharwad, it also doubtful. The said certificate doesn't say that, she was admitted in the hospital on 09.09.2021 as inpatient. Therefore, the certificate does not corroborate the contention of the accused No.1.

11. However, the accused No.1 was on bail as per the bail granted by the Hon'ble High Court of Karnataka, Dharwad Bench Dharwad in CrI. Petition No. 101279/2020. Due to his absence NBW was issued and it was executed on 15.09.2021. Since then he is in J.C. Learned advocate for accused No.1 submits that, accused No.1 is in J.C. for last about one and half months and he understood consequences of not appearing before the Court and may not commit such mistakes in future. Said submission is accepted. By imposing fine for his absence and taking suitable sureties with a condition that he should appear on all the dates of hearing without fail, bail could be granted.

For the above discussion, I answer point No.1 in the Affirmative.

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

ORDER

Bail application filed by Accused No.1 U/s 439 of Cr.P.C., is allowed.

Accused No.1 is ordered to be released on bail on executing personal bond for Rs.1,00,000/- with one surety for like sum amount to the satisfaction of the court, with following conditions:

1) Accused No.1 shall pay fine of Rs.2,000/-.

2) He shall regularly attend before the Court on all the dates of hearing, unless his presence is dispensed with by the Court.

On execution of the bond with surety and also payment of fine, office shall inform to the Jail authority to release accused No.1 on bail.

[Dictated to Stenographer, transcribed & computerized by her, print out corrected and then pronounced by me in the open court on this the **06th day of December 2021**]

(Umesh M.Adiga),
Prl.District & Sessions Judge,
Dharwad.

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(Order pronounced in the Open Court, vide separate Order)

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Pri.District & Sessions Judge,
Dharwad.