

KADW010038702019



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

DATED THIS THE 05th DAY OF NOVEMBER, 2022.

PRESENT:

**SMT. K.G. SHANTHI,
B.COM., LL.M.
PRL. SESSIONS & SPL. JUDGE, DHARWAD.**

S.C No. 173/2019

COMPLAINANT:

State by Sub Urban Police Station, Dharwad.

(By Public Prosecutor, Dharwad.)

V/s

ACCUSED:

1. Mallikarjun Ramakrishna Hadapad.
R/o. Dharwad.
2. Navin s/o. Suresh Ugargol.
R/o. Dharwad.
3. Rajesh s/o. Balappa Pujar.
R/o. Dharwad.

(A.3 by Sri. P.H. Hucharaddi, Advocate)

ORDERS ON THE APPLCIATION U/S. 439 CR.P.C.

This application is filed by the accused No.3 under Section 439 of Cr.P.C., praying to grant regular bail to him in this case.

2. The complainant police registered the case against accused No.1 to 3 in Cr. No. 95/2019 for the offences punishable under sections 120(B), 302 R/w. Section 34 of IPC. The police have arrested the accused, investigated the matter and filed charge sheet against the accused for the above said offences.

3. Earlier, accused No.3 was released on bail by this Court on 16.04.2021. Later, on 05.08.2021 accused No.3 was absent before this Court. So, NBW was issued against accused No.3. On 15.09.2021 accused No.3 was produced under NBW. Accordingly, he was remanded to judicial custody.

4. Now accused No.3 has filed bail application contending that he is innocent and he has not committed any offence. It is contended that due to ill-health, accused No.3 could not able to attend the Court on the date of hearing and could not contact his counsel. So, accused No.3 was produced under NBW and he was remanded to judicial custody. The completion of the trial may take long time. It is stated that

accused No.3 is the permanent resident of the address mentioned in the cause title and he is ready to abide by any conditions imposed by this Court. Accordingly, prays for grant of bail.

5. The learned Public Prosecutor filed objections stating that there are prima facie materials to show the involvement of accused No.3 in the case. Earlier this Court granted bail to accused No.3 with a condition to appear before the Court on all the dates of hearing. But Accused No.3 has violated the bail condition. So, the Court secured the presence of accused No.3 by issuing NBW. If accused No.3 is released on bail, there is every chance of his absconding and he will tamper the witnesses of prosecution. With these reasons, the learned Public Prosecutor prays for rejection of bail application.

6. Arguments heard.

7. The points arose for my consideration :-

1) Whether accused No.3 is entitled for bail?

2) What order?

8. 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

9. **Point No.1:-** As per the prosecution case, on 26.07.2019 in between 3.37 pm to 4.55 pm., near KUD Womens Hostel, Dharwad, accused No.1 to 3 with a common intention of committing the murder of deceased Nagaraj, assaulted him with clubs on his head and caused his murder.

10. The records reflect that earlier, accused No.3 was released on bail by this Court on 16.04.2021. Later, on 05.08.2021 accused No.3 was absent before this Court. So, NBW was issued against accused No.3. On 15.09.2021 accused No.3 was produced under NBW. Accordingly, he was remanded to judicial custody.

11. Accused No.3 contended that, due to his ill-health, he could not able to attend before the Court on the date of hearing and also could not able to contact his counsel. So, Court secured his presence by issuing NBW. He also contended that completion of trial may take long time. Hence, he may be released on bail. Further he has contended, he is the ready to abide by any conditions that may be imposed by the Court. The record reflects that already trial has commenced. It take time to conclude the trial. Accused No.3 caused hurdle to the case.

Hence, I am of the opinion that , it is reasonable to impose a penalty of Rs.5,000/- while allowing the bail application. Accordingly, I answer point No.1 in the affirmative.

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

ORDER

Bail application filed by accused No.3 Rajesh Pujar U/Sec. 439 of Cr.P.C is allowed. Accused No.3 shall execute a bond for Rs.1,00,000/- and he shall pay penalty of Rs.5,000/-.

(Dictated to the judgment writer directly on computer system, printout corrected and then pronounced by me in the open-Court on this the 05th day of November, 2022).

**(K.G. SHANTHI)
PRL.DIST. & SESSIONS JUDGE,
DHARWAD.**