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**IN THE COURT OF THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE AT MYSURU**

Dated this, the 20th day of October 2022

Present: **Sri. M.L.RAGHUNATH**, B.A., LL.M,
Prl.District & Sessions Judge,
Mysuru.

SC/328/2022

Complainant : State by Udayagiri Police Station.

(By **Public Prosecutor**)

//Vs//

Accused : Mahendra and others.

Accused No.5 Tamim Pasha @ Giddu,
S/o Amzad Pasha,
Aged about 21 years,
R/at Door No.302,
4th Cross, Harischandra Ghat Road,
Near Srikantaiah's House,
Kyatamaranahalli,
Mysuru.

(By Sri.K.S.N., Advocate)

**:: ORDERS ON BAIL APPLICATION
FILED BY THE ACCUSED No.5 ::**

Accused No.5 filed this bail application seeking an order of bail under Section 439 of Cr.P.C., for the offences punishable under

Sections 143, 147, 148, 341, 323, 324, 307, 504 and 506 r/w
Section 149 of I.P.C.

2. The accused No.5 contends that, he is innocent of the alleged offences. A false case has been registered against him. He is in Judicial custody since long time. Investigation is already completed. The accused No.4 against whom similar offences are alleged is already granted bail. He is only the earning member of his family and there are no specific overt-acts are alleged against this accused and he undertakes to appear before the Court regularly. Hence, prays to allow the application.
3. The learned Public Prosecutor filed objections to the bail application and contends that, there are prima-facie material against the accused No.5 for having committed the alleged offences. The offence alleged under Section 307 of I.P.C. is punishable with life imprisonment or imprisonment for 10 years and fine and triable by the Court of Sessions. If the accused No.5 is released on bail, he may jump out of bail and tamper with the prosecution witnesses and evidence. Hence, prays to dismiss the petition.
4. Hence, prays to dismiss the petition.
5. Heard the arguments. Perused the records.
6. The points that arise for my consideration are as under:

1. Whether the accused No.5 has made out sufficient grounds to grant an order of regular bail?

2. What Order?

7. My answer to the above points are 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 main claim of the accused No.5 that, omnibus allegations are made against accused Nos.1 to 5 for having committed the alleged offences. It is the case of the Prosecution that, in view of the long standing enmity between the Complainant and the accused persons, on 14.11.2018, at about 10.00 a.m., when the Complainant and his friends were proceeding in front of Hulikyamma Bar, all the accused persons picked up quarrel with the Complainant and assaulted him with their hands and stones. The allegations made against accused No.4 and 5 are that they have hugged the Complainant and assaulted on his face with their hands and accused No.1 with an intention to commit the murder of the Complainant assaulted him with a club on his head on two or three occasions and accused No.2 assaulted the Complainant with a stone on his head. The accused No.3 stamped the Complainant with his legs and caused injuries.

9. So, the allegations made against the accused Nos.4 and 5 are similar in nature. The accused No.4 is already granted bail by the Hon'ble High Court of Karnataka in Crl. Petition No.775/2020 dated 10.2.2020. So when the offences alleged against the accused Nos.4 and 5 are similar in nature, the

bail application of the accused No.4 can be considered in parity with the bail application of accused No.5. The apprehension of the prosecution with regard to the accused No.5 jumping out of bail, tampering the prosecution witnesses, evidence etc., can be met with by imposing suitable conditions. So, considering all these aspects, I proceed to treat **point No.1** in the **affirmative**.

10. **Point No.2**: In the result, I pass the following:

ORDER

Bail application filed by the accused No.5 under Section 439 Cr.P.C. is allowed.

Accused No.5 is enlarged on bail on his executing personal bond for Rs.1,00,000/- (Rupees One Lakh only) with two sureties for likesum subject to following conditions:

1. Accused No.5 shall appear before the court as and when required.
2. He shall not threaten or allure the prosecution witnesses in whatsoever manner.
3. He shall not get involved in similar offences.

Breach of any of these conditions would entail cancellation of bail.

(Dictated to the Stenographer, transcribed by her on Computer, revised, corrected and then pronounced by me in the open court on this day, the **20th^t day of October 2022**)

Sd/-

(M.L.RAGHUNATH)

Prl. District & Sessions Judge,
Mysuru.

*Re/-