

KAMS010074132023



**IN THE COURT OF THE III ADDL SESSIONS JUDGE,
MYSURU**

Present: Smt.K.Bhagya, B.COM., LL.B.,

Dated this the 25th day of April 2024

SC/246/2023

Complainant:

State by Mandi Police Station, repled. By
Public Prosecutor, Mysuru District,
Mysuru.

/vs/

Accused No.1 and 2:

- 1.** Rehamathulla @ F.M @ Syed Sulthan @
Sulthan @ Goru S/o Late Syed Sigbath,
Aged about 31 years, R/at Mysuru
Footpath. **(accused No.1)**
- 2.** Gopala @ Gopi S/o Kamsa, Aged about 30
years, R/at Mysuru Footpath, Permanent
address: No.180, Marigudi Beedi, Near
Adhishakthi Temple, Kumbara Koppalu,
Mysuru. **(accused No.2)**

Order on bail application filed by the accused No.1 & 2
U/s 439 of Cr.P.C

It is stated in the bail application that the complainant police have registered a case against the accused No.1 to 3 for the offences punishable U/s 323, 324, 307, 326, 504, 506 R/w 34 of IPC on the basis of a complaint lodged by one Suresha S/o Krishnamurthy and registered the same in their Cr.No.140/2022.

2. The complainant police after due investigation have submitted the charge sheet for the offences punishable U/s 323, 324, 307, 326, 504, 506 R/w 34 of IPC before the Prl.Civil Judge and JMFC, Mysuru. The Learned Magistrate has committed the above said case to this Court for trial.

3. The gist of the complaint is that on 13/12/2022 at about 7.00 pm at Devaraja Mohalla, Dhanvanthari Road, accused No.1 along with Manja and Gopi have met him and all of them decided to consume alcohol and brought the liquor from a Bar and went to Gumnamsha Gudda in a auto. At the said place, already 2 persons were there and all of them together consumed alcohol. Then, at about 9.00 pm with an old animosity, they have picked up quarrel with him and the accused No.1 tied his legs with a rope and assaulted on his legs with a machete, Gopi cut his face and cheeks with a razor and Manja along with others have assaulted on him

with legs and abused him in filthy language and threatened to kill him. Hence, the complaint filed the complaint.

4. The grounds for bail are as under:

(i) The accused persons have not at all committed the offence as alleged by the respondent police. They are innocents and law abiding citizens.

(ii) There is no prima-facie case against them and there are no grounds to satisfy Sec.307 of IPC.

(iii) The evidence itself reveal that the complainant and accused are known persons and for trivial reasons quarrel might have been occurred in drunken state and absolutely no motive.

(iv) Except Sec.307 of IPC other offences are not punishable with death or life imprisonment. There is no sufficient material to attract Sec.307 of IPC and it attracts only Sec.324 of IPC. The weapon used for assault is not a deadly weapon.

(v) They are the permanent residents of Mysuru City and they have got aged parents.

(vi) In this case, already charge sheet is filed and the trial is almost completed. Hence, there is no

need for custodial interrogation of the accused No.1 and 2.

(vii) They are ready and willing to furnish surety to the satisfaction of the court and undertakes to appear before this court on all the dates of future hearing without fail and also ready to abide by any of the conditions that may be imposed by this court. Hence, this bail petition.

5. The learned Public Prosecutor filed objections in which she has reiterated the Prosecution case. Further, she has contended that the accused No.1 and 2 along with accused No.3 have committed heinous offence by trying to murder the complainant. Sec.307 of IPC is triable by the Sessions Court. The offence U/s 307 of IPC is punishable with imprisonment for life or imprisonment for 10 years with fine. If the accused No.1 and 2 are released on bail, they may abscond or they may tamper the prosecution witnesses and thereby hamper the proceedings of the case before the court. Hence, prayed to reject the bail application.

6. Heard the argument of both side.

7. Now the points that arise for my consideration are:-

1. Whether the accused No.1 and 2 have made out grounds to allow the present application?

2. What order?

8. My answers to the above points are as follows:-

Point No.1 : In the Affirmative

Point No.2 : As per the final order

for the following:-

REASONS

POINT NO.1:

9. I have gone through the charge sheet. Here, the complaint police filed the charge sheet against the accused No.1 to 3 for the offences punishable U/s 323, 324, 307, 326, 504, 506 R/w 34 of IPC.

10. The prosecution case is that on 13/12/2022 at about 7.00 pm at Devaraja Mohalla, Dhanvanthari Road, accused No.1 along with Manja and Gopi have met him and all of them decided to consume alcohol and brought the liquor from a Bar and went to Gumnamsha Gudda in a auto. At the said place, already 2 persons were there and all of them together consumed alcohol. Then, at about 9.00 pm with an old animosity, they have picked up quarrel with him and the accused No.1 tied his legs with a rope and assaulted on his legs with a machete, Gopi cut his face and cheeks with a razor and Manja along with others have assaulted on him with legs and abused him in filthy language and threatened to kill him.

11. There are 3 accused in this case. The accused No.3 was absconded. So, split up SC.No.261/2023 registered against him. Later, he has been secured and hence he is also before this Court.

12. The complaint reveal that these accused No.1 to 3 assaulted on the complainant and tried to kill him. But, the counsel for accused No.1 and 2 argued that the ingredients of Sec.307 of IPC does not attracts to the present case on hand. Here, the IO has already filed the charge sheet. So, these accused No.1 and 2 may not be required for any further investigation. The address of accused No.1 and 2 in the charge sheet reveal that they are footpath residents of Mysuru City. The residential address of accused No.2 cited in the charge sheet. The alleged offences are punishable U/s 323, 324, 307, 326, 504, 506 R/w 34 of IPC. The offence U/s 307 of IPC is punishable with imprisonment for life or for 10 years with fine. The trial of this case may take long time. Till then keeping these accused No.1 and 2 in judicial custody would not serve any purpose. Hence, this Court is of the view by putting certain stringent conditions, if the present application of accused No.1 and 2 is allowed no prejudice would caused to the prosecution. Hence, I answer Point No.1 in the **Affirmative**.

POINT NO.2:

13. In the result, I proceed to pass the following:-

ORDER

The bail application filed by the accused No.1 and 2 U/s 439 Cr.P.C., is hereby allowed with the following conditions:

1. The accused No.1 and 2 have to execute a bond for a sum of Rs.1,00,000/- each with one surety for the likesum.
2. They shall be regular in attending the Court on all hearing dates.
3. They shall not tamper Prosecution witnesses.
4. They shall not leave the jurisdiction of this court till the conclusion of trial without prior permission of this court.
5. They shall furnish their photo along with address proof and photo of the surety with the address proof.

(Dictated to the Stenographer directly on computer and then pronounced in the open court on this the 25th day of April 2024)

(K.Bhagya)
III Addl.District & Sessions Judge
Mysuru.

(Order pronounced in open Court vide separate Order)

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III AD & SJ, Mysuru.