

KAUK010012952023



**IN THE COURT OF THE 2nd ADDL. DISTRICT & SESSIONS
JUDGE, UTTARA KANNADA, KARWAR**

DATED THIS THE 25th DAY OF OCTOBER, 2023

SPECIAL CASE NO:99/2023

PRESENT:

Sri MAYANNA. B. L.,

B.A., LL.B.,

II Addl., District & Sessions Judge,
Uttara Kannada, Karwar.

**ACCUSED:
NO.2 TO 4**

1. Ganesh @ Ganeshrao S/o. Chandru Rao,
Aged 29 years, Occ: Driver,
R/o Bhagavati Village,
Taluk : Haliyal. U.K.
2. Vighnesh @ Vighneshwar Rao
S/o. Chandru Rao,
Aged 30 years, Occ: Driver,
R/o Bhagavati Village,
Taluk : Haliyal. U.K.
3. Akhilesh S/o. Chandru Rao,
Aged 20 years, Occ: Coolie,
R/o Bhagavati Village,
Taluk : Haliyal. U.K.

(By. Sri. G.V.N., Advocate.)

Vs.

**RESPONDENTS:
COMPLAINANTS**

1. The State of Karnataka,
Represented by Public Prosecutor,
Uttara Kannada, Karwar.

2. The P.S.I.,
Haliyal Police Station,
Taluk : Haliyal. U.K.
3. Hema Ravindra Rathod,
Aged 38 years,
Occ: Housewife,
R/o. Bhagavati Village,
Taluk: Haliyal. U.K.
4. Rathna Santosh Rathod,
Aged 35 years,
Occ: Housewife,
R/o. Bhagavati Village,
Taluk: Haliyal. U.K.

ORDER

The Accused No.2 to 4 have filed the bail Application under Section 439 of Cr.P.C., seeking regular bail for their release.

2. In the bail Application the Accused Persons have contended that the Haliyal Police have registered the case against the Accused Persons for the offences punishable under Sections 143, 147, 148, 323, 324, 354, 504, 506 read with Section 149 of IPC and Section 3(1)(r), 3(1)(s), 3(1)(b) of SC and ST (Prevention of Atrocities) Amendment Act 2015 in Crime No.112/2023. The Accused Persons are indicted for the above said offences and they have been arrested on false and frivolous case. The Accused Persons are innocent and they have not at all involved in the alleged offence. There are no ingredients for the alleged offences in the complaint. The

offence has to be proved at the time of full fledged trial. They are respected persons in the society and have no criminal antecedents. They are the sole earning members of their families. The Police have already investigated the matter and have filed the chargesheet and hence, the custodial interrogation of the Accused No.2 to 4 is not required. The Accused No.2 to 4 are ready to produce sureties to the satisfaction of the Court and also they will comply with any stringent conditions that may be imposed by this Court. Therefore, it is prayed to allow the bail Application and grant the regular bail.

3. After issuance of notice, the Complainant and Victim appeared before the Court through their Advocate and filed objections to the bail Application reiterating the averments made in the complaint and have sought for dismissal of bail Application.

4. The learned Public Prosecutor has filed objections to the bail Application contending that the bail Application filed by the Accused Persons is contrary to the law and hence, same is liable to be dismissed. It is contended that Complainant and Accused Persons are residents of Bhagavati Village. The Accused Persons knowing fully well that the Complainant and Victim belongs to SC Hindu Lamani Caste, they were troubling them by throwing unwanted things near the house of the Complainant and they were storing sand near the

house of the Complainant. However, on 02/06/2023 at about 11.30 a.m., when the Accused Persons were throwing unwanted things near the house of the Complainant, the Complainant and the Victim questioned the same to Accused No.1, for that the Accused No.1 abused the Complainant and Victim in filthy language by taking caste name, pulled the hair of the Complainant and the Accused No.2 to 4 with common intention have formed an unlawful assembly and the Accused No.2 dragged and pushed the Complainant and assaulted with wooden club and threatened to destroy her house and the Accused Persons dragged the Complainant and Victim and pushed the Complainant and threatened with dire consequences and also threatened to set fire on the Complainant and Victim and also on their house. If the Accused Persons are released on bail, there is chance of abscondence and also they may commit similar offences, tamper the witnesses and also give threat to the Complainant and witnesses. On these grounds, the learned Public Prosecutor sought for rejection of the bail Application.

5. Heard the arguments addressed by the Counsel for Accused No.2 to 4 and learned Public Prosecutor.

6. The Points that arise for the consideration of the Court are as under:

- 1) Whether the bail Application filed by the Accused No.2 to 4 under Section 439 of Cr.P.C., deserves to be allowed ?

2) What Order ?

7. The findings of the Court on 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**:- I have perused the Complaint, F.I.R., Chargesheet and other documents. The Haliyal Police have registered the case against the Accused Persons in Crime No.112/2023 for the offences punishable under Sections Sections 143, 147, 148, 323, 324, 354, 504, 506 read with Section 149 of IPC and Sections 3(1)(r), 3(1)(s), 3(1)(b) of SC and ST (Prevention of Atrocities) Amendment Act 2015. The allegation made in the Complaint that on 02/06/2023 at about 11.30 a.m., when the Accused Persons were throwing unwanted things near the house of the Complainant, the Complainant and the Victim questioned the same to Accused No.1, for that the Accused No.1 abused the Complainant and Victim in filthy language by taking caste name, pulled the hair of the Complainant and the Accused No.2 to 4 with common intention have formed an unlawful assembly and the Accused No.2 dragged and pushed the Complainant and assaulted with wooden club and threatened to destroy her house and the Accused Persons dragged the Complainant and Victim and pushed the Complainant and threatened with dire

consequences and also threatened to set fire on the Complainant and Victim and also on their house. Hence, the Complainant filed the Complaint against the Accused Persons before the Haliyal Police and the Haliyal Police have registered the case against the Accused Persons for the above said offences and accordingly FIR came to be registered. After the registration of the FIR, the Accused Persons were absconding and the Police have filed the absconding charge sheet and this Court has issued the NBW. Pursuant to the issuance of NBW, the Haliyal Police have arrested the Accused No.2 to 4 and have produced them before this Court on 09/10/2023. From the date of arrest, the Accused No.2 to 4 are in judicial custody.

9. The Counsel for the Accused No.2 to 4 argued that they have not committed any offences as alleged in the Complaint. There are no ingredients for the alleged offences in the Complaint. The alleged incident took place on 02/06/2023 and the complaint was filed on 14/06/2023 and hence, there is delay in filing the complaint. Further, earlier to this incident, Accused No.1 has filed complaint against the Complainant. Initially FIR was registered against nine persons and later Chargesheet was filed against the Accused No.1 to 5. Though the offence punishable under Sections 324, 354 of IPC and Section 3(1)(r), 3(1)(s), 3(1)(b) of SC ST (Prevention of Atrocities) Amendment Act, 2015 are non-bailable in nature, the same are not punishable with death or life imprisonment.

The Accused Persons undertakes that they will not hamper the investigation and also ready to furnish adequate surety and abide by the conditions imposed by this Court. Therefore, it is requested to allow the application and grant the regular bail.

10. The learned Public Prosecutor argued that the alleged offences are serious in nature. Pursuant to the registration of the FIR, the Accused Persons were absconding and the Police have investigated the matter and have filed the absconding Chargesheet. At this stage, if the bail is granted and Accused No.2 to 4 are released on bail, there is chance of abscondence from the jurisdiction of this Court and they may delay the trial and in such an event, it will hamper the prosecution witnesses as well as the trial and hence, the learned PP prayed to reject the bail Application.

11. After hearing the arguments addressed by the Counsel for Accused No.2 to 4 and learned Public Prosecutor and upon perusal of the records, the allegation is that the Accused Persons knowing fully well that the Complainant and Victim belongs to SC Hindu Lamani Caste have formed an unlawful assembly and in furtherance of their common object have abused them in filthy language by taking caste name and tried to assault the Complainant and Victim with wooden club and also threatened to set fire on them and also on their house.

12. It is relevant to mention here that the offence under Sections 324, 354 of IPC and the offence under the SC/ST (Prevention of Atrocities) Amendment Act, 2015 are non-bailable and other offences are bailable in nature. However, the said offences are not punishable with death or imprisonment for life. The Accused No.2 to 4 were arrested on 09/10/2023 and they are in judicial custody from the date of arrest. Further, the alleged incident took place on 02/06/2023 and the complaint was filed on 14/06/2023 and there is delay in filing the complaint and the same is not satisfactorily explained. Further, the Police have already investigated the matter and have filed the chargesheet.

13. It is well settled principles of law that at the time of considering the bail application, the Court cannot go into merits of the case in deep. Whether the Accused No.2 to 4 have committed the offences as alleged against them or not, has to be thrashed out during trial. At the time of considering the bail application, the Court has to consider whether the Accused No.2 to 4 are required for investigation and their presence could be secured at the time of trial.

14. The apprehension of the Prosecution that if the Accused No.2 to 4 are released on bail, there is chance of abscondence from the jurisdiction of this Court, they may delay the trial and also they will tamper the prosecution witnesses and also hamper the trial, can be met out by imposing stringent conditions. Further, since the Accused No.2 to 4 are

permanent resident of Bhagavati Village, Haliyal Taluk, in order to bind the Accused Persons, the suitable conditions can be imposed. Therefore, the objection raised by the Public Prosecutor that the Accused No.2 to 4 should not be released on bail is not sustainable. Under these circumstances, this Court of the opinion that the bail Application filed by the Accused No.2 to 4 under Section 439 of Cr.P.C., deserves to be allowed by imposing stringent conditions. Hence, this Court answers Point No.1 in the **Affirmative**.

15. **Point No.2**:- In view of the findings on Point No.1, this Court proceed to pass the following:

:ORDER :

The bail Application filed by the Accused No.2 to 4 under Section 439 of Cr.P.C., is hereby allowed subject to the following conditions:

1. The Accused No.2 to 4 shall be released on bail in Crime No.112/2023 of Haliyal P.S., (Special Case No.99/2023) on their executing personal bond for Rs.1,00,000/- with two sureties for like sum.
2. The Accused No.2 to 4 shall not tamper with the prosecution evidence as well as witnesses and also shall co-operate with the investigation, if it is required.

3. The Accused No.2 to 4 shall appear before the Court regularly till the conclusion of the trial.
4. The Accused No.2 to 4 shall not repeat the similar offences.
5. The Accused No.2 to 4 shall not leave the jurisdiction of the Court without permission of the Court.

In case of any of these conditions are violated, the prosecution is at liberty to seek for cancellation of bail.

(Dictated to the stenographer directly on computer, typed by her, revised and corrected by me, signed and then pronounced in the open court on this the 25th day of October, 2023.)

(MAYANNA. B.L.)

2nd Addl. District & Sessions Judge,
Uttara Kannada, Karwar.