



IN THE COURT OF THE PRINCIPAL DISTRICT &
SESSIONS JUDGE, UDUPI AT UDUPI.

PRESENT

Sri K.S. Gangannavar, B.Com., LLB., (Spl.)
Principal District & Sessions Judge, Udupi

Dated this day 27th day of September, 2024

SESSIONS CASE No.11/2024

Applicants/ 1) Rajashekhar Reddy,
Accused S/o Late B.J.Ishwarappa,
Nos.1 & 2 Aged about 44 years,
R/at Chikkanakere,
Manuru Village,
Brahmavara Taluk.

2) Chandrashekar Reddy,
Aged about 48 years,
R/at Chikkanakere,
Manuru Village,
Brahmavara Taluk

(By Sri Y.V. Hegde, Advocate)

/Vs/

Respondent/ The State through
Complainant Dy.S.P., Udupi Sub-Division, Udupi

(By Special Public Prosecutor, Udupi)

ORDER ON APPLICATION U/s 439 of Cr.P.C.

Accused Nos.1 and 2 facing allegations of the
offence punishable under Sections 143, 147, 148, 447,
341, 323, 307, 302, 120B, 109, 112, 201, 212 r/w 149

of IPC in Crime No.15/2019 of Kota Police Station, have filed this application.

2. According to the complainant Lohit, on 26.01.2019 at about 11.00 p.m. accused Nos.1 to 8 formed an unlawful assembly with common object to cause death of complainant, Bharat Kumar and Yathish, being armed with deadly weapons trespassed into the house premises of complainant situated at Chikkanakere in Manur village and caused the death of said Bharat Kumar and Yathish so also attempted to kill complainant. They even assaulted the witnesses who came to rescue. Accused No.9 is the one who hatched conspiracy for these offences and harboured accused Nos.1 to 8. Police filed charge sheet after completing investigation.

3. It is contended by the applicants that earlier the case was made over to I Addl. Sessions Court at Kundapura. During the trial, the court examined 104 witnesses as PW1 to 104 by January, 2023. On the point of jurisdiction the case has been transferred to this court. Applicants are innocent and they have not

committed the alleged offences and they have been falsely implicated. Accused No.1 was arrested on 08.02.2019 and accused No.2 was arrested on 16.02.2019. Since more than 5½ years, they are in judicial custody. Statement of accused under Section 313 of Cr.P.C. is yet to be recorded. Thereafter, various accused persons may lead defence evidence which may cause further delay in disposal of the case. As the recording of evidence is completed, custody of applicants is no more required. In view of the various decisions of Hon'ble Apex Court, they may be released on bail. Hence, sought to allow the application.

4. Learned public prosecutor filed objections to the application reiterating the complained allegations and contended that accused No.1 and 2 are directly involved in the crime and witnesses have supported the case of prosecution. This is a case of double murder. Offences alleged are punishable with death or imprisonment for life. In this background there is every possibility for absconding of applicants fearing for conviction. Considering the criminal background of the

applicants, they are likely to threaten the witnesses. Release of accused at this stage of the proceedings will send wrong signal to the society. Hence, sought to reject the application.

5. Heard both sides. Perused the materials.

6. Point that arise for consideration is:

“Whether the applicants are entitle for the bail?”

7. Above point is answered in the negative for the following:

REASONS

8. Accused persons have filed this bail application contending that they have been facing trial since 5½ years. Since their arrest, they are in judicial custody. During the trial, in all 104 witnesses are examined. Accused persons are innocent of the offences alleged. They have been falsely implicated in the above case. Accused No.1 is arrested on 08.02.2019. Accused No.2 was arrested on 16.02.2019. In view of the lengthy trial and for various other reasons, the trial has taken more than the period anticipated.

9. Even now, because of other reasons, statement of accused under Section 313 of Cr.P.C. is not recorded. Even after recording statement under Section 313 Cr.P.C. accused persons will be examining for the sake of their defence. Thereby, further delay will be caused in concluding the trial. Evidences of all the witnesses is completed. Detention of the accused in custody is not required for any purposes. There are no valid reasons to detain the accused persons. Hence sought to allow the application.

10. Learned Special Public Prosecutor has filed detailed objections along with the I.O. Report, wherein allegations of the complaint, nature of the trial conducted along with the number of witnesses examined is also stated.

11. It is specifically contended by the learned Public Prosecutor that until the trial, report of the Investigating Officer was only material to be considered for deciding to grant or not to grant bail to the accused persons. Once the trial is started, and the evidence is

placed on record, then the allegations of the Investigating Officer, whether corroborated by the evidence or not is prima facie available. In view of the evidence on record, the report of the Investigating Officer is further corroborated in this case. The allegations against the accused persons is substantiated. When the court deny the bail based only on the report of the Investigating Officer, then, the question of considering the same when such allegations are corroborated does not arise at all. This application is vexatious and because of the pending trial alone, cannot be the reasons to seek the bail. Trial gets delayed for various reason. Causing unnecessary delay in the disposal of the case is never intended but because of various other factors, delay caused in proceeding with the trial by itself cannot accrue right to seek the bail.

12. Aggravated form of the offences alleged and established during the trial are to be considered in deciding the bail. During this process, nature of allegations levelled against the accused persons cannot

be overlooked. Going by these allegations, accused persons had fatally assaulted the victims in their premises. Fatal assaults often does not happen instantly. Thereby, substantial preparations evidencing the intention to commit the offences cannot be overlooked. Presence of hostility cannot be the sole ground to cause the death. Presence of hostility and aggravating hostile situation needs to be handed in a particular manner. At least for the sake of order in society. An individual cannot gain significance by committing the crime. Hence, considering the nature of offences and the trial conducted by the prosecution throughout, no just grounds are found to release the accused on bail.

13. At the time of hearing, learned Special Public Prosecutor has relied upon certain judgments of Hon'ble Supreme Court and the Hon'ble High Court of Karnataka where the power of prosecution to file additional charge sheet and the delay caused in completing the trial are clearly examined in relation to the relief of bail. Even then, due consideration was

given for the nature of the offences as well as the investigation require in a case. Thereby, the delay in disposal of the case was not a ground to grant the bail. Hence, there are no just reasons to allow the application at this stage.

14. Accordingly, above point is answered in the negative and hence, the following:

ORDER

The application under section 439 of
Cr.P.C. is hereby rejected.

(Dictated to the Stenographer Grade-I, transcript revised/corrected, then pronounced in the open court on 27th day of September , 2024)

(K.S. Gangannavar)
Principal District & Sessions Judge
Udupi.