

KABG420014842022



**IN THE COURT OF THE VII ADDITIONAL SESSIONS
JUDGE, BELAGAVI, SITTING AT CHIKKODI.**

PRESENT :

**SHRI. S. L. CHAVHAN,
B.Com., LL.B.,(Spl).,
VII Addl. District & Sessions Judge,
Belagavi, Sitting at Chikkodi.**

DATED THIS THE 15th DAY OF NOVEMBER 2022

CRIMINAL MISCELLANEOUS NO.5704/2022

PETITIONERS / ACCUSED :

1. Smt. Shanta W/o Dhanpal Kamble,
Age : 52 years, Occ: H.H. Work,
R/o. Bommanal, Tq: Raibag, Dist: Belagavi.
2. Shri. Dhanpal Basappa Kamble,
Age : 55 years, Occ: Agriculture,
R/o. Bommanal, Tq: Raibag, Dist: Belagavi.
3. Smt. Rajeshri Dhanpal Kamble,
Age : 23 years, Occ: Agriculture,
R/o. Bommanal, Tq: Raibag, Dist: Belagavi.
4. Shri. Somashekhar S/o Gopal Kamble,
Age : 23 years, Occ: Agriculture,
R/o. Bommanal, Tq: Raibag, Dist: Belagavi.

(By Shri. D. B. Peerjade, Adv.)

- Vs. -

RESPONDENT :

The State of Karnataka,
Represented by Public Prosecutor, Chikodi,

(By Ld. Public Prosecutor, Chikkodi.)

ORDER

The petitioners have filed this application U/Sec.438 of the Code of Criminal Procedure, praying to grant the anticipatory bail for the offences punishable U/Sec. 323, 326, 504 and 506 r/w section 34 of the I.P.C. registered by the Raibag P.S. in its crime No.244/2022. The petitioners will hereinafter be referred to as “accused.”

2. The concise facts of the prosecution case are that on 12-10-2022 at 1-30 p.m., while the complainant was coming to the police station in connection with the case of his client who is contractor by name P.S. Waddar, the accused in furtherance of common intention abused him in filthy words in front of the police station and the

accused-Shanta slapped and accused-Dhanapal assaulted by a sharp object on his face and hand and caused injuries and in the mean time, the witnesses rescued him from the hands of the accused. But at that time, the accused-Rajashree and Somashekhar assaulted him and therefore, he went to the government hospital. Therefore, the said Police Station, on the basis of the complaint, registered the case in the above referred crime number for the above said offences.

3. Therefore, the accused filed this bail application contending that they being innocent have not committed the alleged offences and that the false complaint is filed. They are ready to abide by any conditions that may be imposed by this court for releasing on anticipatory bail. It is contended by the accused in such a way that alleged offences are not at all committed as alleged in the complaint. On these main grounds, it is prayed for granting the anticipatory bail.

4. Per-contra, the learned Public Prosecutor for the State has filed objections along with I.O. objections and xerox copies of F.I.R. and complaint praying to reject the bail application on the main grounds that the accused have committed the above said offences and therefore, if they are enlarged on bail, they are likely to threaten the prosecution witnesses, destroy the evidence, repeat the similar offence and also abscond as the case is under investigation.

5. Heard the arguments and perused the case records.

6. Now, the following points arise for consideration and determination :

POINTS

1. Whether the petitioners are entitled for anticipatory bail on conditions ?

2. What order ?

7. My findings on the above points are as under :

Point No.1 : In the Affirmative,

Point No.2 : As per the final order for the following :

REASONS

8. **POINT NO.1** : A perusal of the case records brings to light that the Raibag P.S. has registered a criminal case against the accused in the above referred crime number for the above referred offence on the basis of the complaint filed by the complainant.

9. The learned counsel for the accused, by reiterating the grounds urged in the bail application, has contended that the alleged crime is not at all committed by the accused and that the accused have been falsely implicated in this case and therefore, they are ready to abide by any conditions that may be imposed by this court for releasing on anticipatory bail. It is further contended that the police are searching the accused for arresting and therefore, they are ready to obey any

conditions that may be imposed by this court for releasing on bail.

10. On the contrary, the learned Public Prosecutor for the State, by opposing the bail application, has contended that the above said crime has been committed by the accused and therefore, if the accused are released on bail, they are likely to threaten the prosecution witnesses, abscond, repeat similar type of offence or any other offence and thereby, there would be hurdles for the investigation and trial.

11. A perusal of the case records available at present brings to light that the alleged offences are not punishable with death sentence. There are no sufficient prima facie materials attracting section 326 of the I.P.C. It appears that the major part of the investigation is completed and hence, there are no ample supportable materials to show that the accused are required for the purpose of custodial

interrogation. It is noticed that though the incident took place on 12-10-2022 at 13-30 hours, the complaint was filed on 13-10-2022 at 14-10 hours. The reason for delay in filing the complaint cannot be held as proved at this stage unless it is proved through the acceptable evidence to be led in the court. It is noticed that no adequate materials are placed before this court to show that the accused have got criminal antecedents.

12. If the facts and circumstances of the case and the materials available on record are looked into, it would make clear that there are no compelling circumstances and supportable materials for the I.O. to hold the custodial interrogation. The accused are prepared to abide by any conditions that may be imposed by this court for releasing on anticipatory bail. It is submitted that there is apprehension of arrest of the accused by the police. It is relevant to mention that the allegation made against the accused needs to be established on the strength of the

evidence to be led in the trial but not at this stage. So, I do not find sufficient materials and grounds to put the accused behind bars till the allegation is proved. I do not find sufficient and supportable grounds and materials to say that the accused are likely to destroy the evidence, repeat similar crime and abscond.

13. Therefore, the accused may be enlarged on bail that too by imposing some conditions in order to safeguard the apprehension and objections of the prosecution. So, the facts and circumstances of the case and the materials presently available on record compel me to come to conclusion that these accused are entitled for the grant of anticipatory bail on conditions. Therefore, I have answered the Point No.1 in the AFFIRMATIVE.

14. **POINT NO.2:** For the aforementioned reasons, the application filed by the accused deserves to be allowed. Accordingly, I proceed to pass the following :

ORDER

- i) The application filed by the petitioners U/Sec.438 of the Code of Criminal Procedure stands ALLOWED.
- ii) In the result, it is ordered that the petitioners shall be released immediately on anticipatory bail in the event of their arrest in crime No.244/2022 registered by the said Police Station for the offences punishable U/Sec. 323, 326, 504 and 506 r/w section 34 of the I.P.C. on executing their personal bond for a sum of Rs.50,000/- each with a fit surety for the like sum before the investigating officer, subject to the following :

CONDITIONS THAT

1. The petitioners shall surrender themselves before the I.O. in the said Police Station within 15 days from the date of this order.
2. They shall regularly appear before the Court on the dates of hearings.

3. They shall co-operate with the Investigating Officer in the investigation of this case.

4. They shall not make any inducement, threat, promise or cajolement to any of the prosecution witnesses in any manner.

5. They shall not repeat the similar type of offence or any other offence in any manner.

6. They shall mark their attendance before the P.S.H.O. of said Police Station on 2nd and 4th Sunday of every month between 10.00 A.M. and 5.00 P.M., until the final report is filed or till expiry of 90 days whichever is earlier.

(Dictated to the Typist directly over the computer and typed by him, corrected and signed by me and then pronounced in the Open Court on this the 15th day of November 2022.)

(S. L. CHAVHAN)
VII Addl. District & Sessions Judge,
Belagavi, Sitting at Chikkodi.