

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

CRIMINAL APPEAL NO. 2383 OF 2025 (A)

BETWEEN:

SRI. SRIMURTHY J.K.
S/O LATE JAYAPPA
AGED ABOUT 28 YEARS
R/O KURIGEPALLI VILLAGE
SRINIVASAPURA TALUK
KOLAR DISTRICT - 563 135.

...APPELLANT

(BY SRI. G.M. SRINIVASAREDDY.,ADVOCATE)

AND:

1. STATE OF KARNATAKA
R/BY SRINIVASAPURA POLICE STATION
THROUGH STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU - 560 001.
2. SRI. MUNISHAMI G.,
S/O GANGIREDDY
AGED ABOUT 33 YEARS
R/O GUNTHAVARIPALLI VILLAGE
SRINIVASAPURA TALUK
KOLAR DISTRICT - 563 135.

...RESPONDENTS

(BY SRI. VINAY MAHADEVAIAH, HCGP FOR R1;
SRI. S. MUNI RAJU.,ADVOCATE FOR R2)

THIS CRL.A IS FILED U/S 378(1)(3) OF CR.PC PRAYING
TO A). SET ASIDE THE ORDER DATED 22.08.2025 PASSED BY

THE II ADDL.DISTRICT AND SESSIONS JUDGE, AT KOLAR IN SPL.S.C BNS AND SC/ST NO.9 OF 2025. B). ENLARGE THE APPELLANT ON BAIL IN SPL.S.C. BNS AND SC/ST NO.9 OF 2025 FOR THE OFFENCE P/U/S 45,54,61, 115(2), 351(2), 352, 103(1) R/W SECTION 3(5) AND U/S 3(1)(r), 3(1)(s) AND 3(2)(v) OF SC AND ST (PREVENTION OF ATROCITIES) (AMENDMENT) ACT 2015 REGISTERED BY SRINIVASAPURA POLICE STATION PENDING BEFORE THE COURT OF II ADDL.DISTRICT AND SESSIONS JUDGE, AT KOLAR.

THIS CRIMINAL APPEAL HAVING BEEN HEARD AND RESERVED ON 09.03.2026 FOR JUDGMENT COMING ON FOR PRONOUNCEMENT THIS DAY, THIS COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

CAV JUDGMENT

This appeal is by accused No.1 being aggrieved by the order dated 22.8.2025 passed in Spl.S.C.BNS and SC/ST No.9/2025 on the file of II Additional District and Sessions Judge, Kolar, by which the successive application filed by the accused No.1/appellant herein seeking his enlargement on bail in the case involving offences punishable under Sections 45, 54, 61, 115(2), 351(2), 352, 103(1), r/w Section 3(5) of BNS and Sections 3(1) (r), 3(1)(s) and 3(2)(v) filed under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been rejected.

2. Case of the prosecution is that on 17.03.2025 at around 3:30 pm, accused No.1/appellant herein had been to R.R.R Bar near Somyajalahalli Village to pay money to his uncle Kittappa/CW21. That after consuming alcohol, accused No.1/appellant along with one Mohan/accused No.3 and said Kittappa/CW.21 came out of the said Bar around 4:00 p.m. At that time, there was a quarrel between accused No.1, accused No.3 and certain Vasu/CW.8 and Anil Kumar/CW.9 on the issue of washing their hands near the washbasin of the said Bar causing injury to CW.9 which was witnessed by villagers of Somayajalapalli as well as Ramasamudram of Andrapradesh. Subsequently, Manjunath of Guthavaripalli village having learnt about the quarrel that had taken place between accused No.1/appellant and CW.8 had called accused No.1/appellant on his mobile and had questioned him as to why he had quarreled with CW.8 to which there was altercation between said accused No.1/appellant and said Manjunath. Thereafter, the said Manjunath had again called accused No.1/appellant at 7.00 pm. on his mobile once again enquiring about the incident. Similarly, CW.8 had also called accused No.1 on his mobile with regard to the said incident to which accused No.1/appellant had replied stating that it was him who had assaulted CW.8 and he

could do whatever possible from him. That accused No.1/appellant had called the said Manjunath over phone and threatened him with dire consequences to which said Manjunath had provoked accused No.1/appellant with foul language.

3. That the accused No.1/appellant had informed accused No.3 about this incident to which accused No.3 had asked accused No.1/appellant to come near his house along with his elder brother. Accordingly, accused No.1/appellant along with his elder brother Shivashankar @ Shankar /accused No.2 went near the house of accused No.3 on a Bajaj Pulsar two wheeler bearing No.K.A.07.EG.6071 belonging to CW.15 and accused No.3 had handed over a stick like dagger to the accused No.1/appellant and had also handed over a knife with a wooden handle to accused No.2 and had instigated them to eliminate said Manjunath.

4. Accused Nos.1 and 2 had carried the said weapons on a two wheeler and found Manjunath standing near vulcanizing shop of one Mehaboob Pasha situated near the bus stand of Somayajalapalli village at about 8.20 p.m, and had abused said Manjunath with foul language and humiliated him in the name of his caste. Accused No.3 who had come to the

spot at that time had instigated accused No.1/appellant to finish off the said Manjunath result of which accused No.2 had assaulted Manjunath on his right knee causing bleeding injury while accused No.1/appellant had repeatedly assaulted said Manjunath with the dagger on to his lower portion of the left side of his chest two to three times and having pushed him to the ground had kept his right leg on the body of Manjunath and had wrenched the dagger pulling it out from the body of Manjunath killing him on the spot.

5. That the said incident has been witnessed by CW.1 to CW.6. It is further case of the prosecution that the accused Nos.1 to 3 belonged to Vokkaliga community, while CW.1-complainant and deceased belonged to scheduled caste community.

6. Learned counsel for the accused No.1/appellant submitted that the incident had taken place under sudden and grave provocation as evident from the contents of the complaint which indicate that the deceased himself had called the accused No.1/appellant on several occasions over his mobile phone and had abused him in filthy language which also indicate deceased himself had invited the trouble. That the

complaint and prosecution story is false and fabricated cannot be relied upon, inasmuch as statement of eye witnesses has been recorded after two days of the incident. The accused No.1/appellant hails from respected family and has no criminal antecedents and he is solely responsible for the family maintenance.

7. Learned counsel for the accused No.1/appellant relies upon the judgment of the Hon'ble Apex Court in the case of **BHAGIRATHSINH JUDEJA VS. STATE OF GUJARAT** reported in **AIR 1984 SCC 372** and referring to paragraph No.6 of the said judgment, he submits that the power to grant bail shall not be exercised as the punishment before the trial being imposed. That the only material consideration should be whether the accused would be available for his trial or whether he is likely to abuse the discretion granted in his favour by tampering the evidence. He also relies upon the order of the Co-ordinate Bench of this Court passed in **Crl.A.No.1737/2025** dated **27.10.2025** by which the Co-ordinate Bench of this Court had granted bail to accused No.2 of this case. He submits that the accused No.3 has been granted bail by the trial Court by order dated 07.05.2025.

Thus, he submits even on the ground of *parity* the accused No.1/ appellant is entitled for bail.

8. Learned HCGP opposing the application submits that as per the post mortem report death of Manjunath is caused due to shock and hemorrhage as a result of stab injuries sustained to abdomen and chest. That the gravity of the offence and the punishment prescribed are life or death sentence and that there is every likelihood of accused No.1/appellant tampering with the prosecution witnesses if granted bail. Hence, seeks for dismissal of the appeal.

9. Heard. Perused the records.

10. Perusal of the complaint and the charge sheet indicates that the accused No.1/appellant had allegedly come with a dagger and having found Manjunath, attacked him with the said weapon on to the left portion of his chest two to three times and had even pushed him on to the ground and had wrench the dagger by keeping his leg on Manjunath's body which resulted the death of said Manjunath. The said incident is allegedly witnessed by CWs.1 to 6. Though, a ground is sought to be made out by the counsel for the accused No.1/appellant regarding incident having taken place under sudden and grave

provocation caused by deceased himself, this Court is not persuaded by the same in the light of contents of complaint and the charge sheet.

11. Perusal of the order passed by the Co-ordinate Bench of this Court in CrI.A.No.1737/2025 indicate that accused No.2 was granted bail on the premise of specific accusation against him of he assaulting deceased with a knife below the right leg causing bleeding injuries while the main accusation was against accused No.1 of he stabbing on the chest and the abdomen of the deceased which was the cause of death.

12. The trial Court has granted bail to accused No.3 by order dated 07.05.2025 on the premise of there being no attribute of overtact on accused No.3.

13. Apex Court in the case of **SHABEEN AHMAD V. STATE OF UTTAR PRADESH** reported in **2025 4 SCC 172** at paragraph 18 has held as under;

"18. A superficial application of bail parameters not only undermines the gravity of the offence itself but also risks weakening public faith in the judiciary's resolve to combat the menace of dowry deaths. It is this very perception of justice, both within and outside the courtroom, that courts must safeguard, lest we risk normalising a crime that continues to claim numerous innocent lives. These observations regarding grant of bail in

grievous crimes were thoroughly dealt with by this Court."

14. IN **AJWAR V. WASEEM** reported in **(2024) 10 SCC 768** the Apex Court at paragraph 26 has held as under;

"26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail."

15. Perusal of the contents of complaint and charge sheet indicate the seriousness of the manner in which the accused No.1/appellant has committed the offence. The post mortem report indicate that the death was caused due to shock and hemorrhage as a result of stab injuries sustained on the abdomen and chest. CW.1 is elder brother of the deceased who claims to have witnessed the incident and had also spoken about the presence of other eye witnesses namely, Venkataram CW.2, Narayanaswamy C.W3, Gangadhar CW.4 and Manjunath CW5 at the scene of crime.

16. In the circumstances, this Court is of the view that accused No.1/appellant has not made out a case for grant of bail at this juncture. Accordingly, following;

ORDER

Reserving liberty to the accused No.1/appellant to seek grant of bail after recording of evidence of eye witnesses and other important witnesses, this appeal is ***rejected.***

**Sd/-
(M.G.S. KAMAL)
JUDGE**

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