



IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH

DATED THIS THE 4TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE T G SHIVASHANKARE GOWDA

CRIMINAL PETITION NO. 201277 OF 2024

(439(Cr.PC)/483(BNSS))

BETWEEN

1. MONABAI W/O. PANDURANG KHOT
AGE: 23 YEARS, OCC: COOLIE,
2. SABU S/O. BALAPPA KOKATANUR,
AGE: 48 YEARS, OCC: AGRICULTURE,
3. MAHANANDA W/O. SABU KOKATANUR,
AGE: 43 YEARS, OCC: COOLIE,

ALL ARE R/O: SANKH, TQ. JATH,
NOW RESIDING AT KATRAL,
TQ. BABALESHWAR, DIST. VIJAYAPURA 586 102

(ACCUSED NOS. 1 TO 3 IN THE FIR)

... PETITIONERS

(BY SRI. MANVENDRA REDDY, ADVOCATE)

Digitally signed by
CHANDRASHEKAR
LAXMAN
KATUMMANI
Location: HIGH
COURT OF
KARNATAKA

AND

1. THE STATE OF KARNATAKA
THROUGH BABALESHWAR POLICE STATION,
REPRESENTED BY ADD. SPP.
HIGH COURT OF KARNATAKA BENCH 585 107.



2. MAMTAJ W/O LADASAB NADAF
AGE: 50 YEARS, OCC: AGRICULTURE,
R/O: ADIHUDI, TQ: JAMAKHANDI,
DIST: BAGALKOT-587 301.

...RESPONDENTS

(HCGP FOR R1 ABSENT)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 483 OF BNSS (NEW) BY THE ADVOCATE FOR THE PETITIONERS PRAYING THAT, THIS COURT MAY BE PLEASED TO ALLOW THE PETITION AND BE PLEASED TO RELEASE THE ACCUSED/ PETITIONERS ON BAIL IN CRIME NO.0139/2024 OF BABALESHWAR POLICE STATION, TQ. BABALESHWAR, DIST. VIJAYAPURA FOR THE OFFENCES PUNISHABLE UNDER SECTION 103(1), R/W SEC. 3(5) OF BHARATIYA NYAYA SANHITA 2023 PENDING BEFORE 2ND ADDL. CIVIL JUDGE (JR.DN) AND JMFC COURT, BIJAPUR DIST IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 13.11.2024 AND COMING ON FOR 'PRONOUNCEMENT OF ORDER, THIS DAY, THIS COURT, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE T.G. SHIVASHANKARE GOWDA

CAV ORDER

(PER: HON'BLE MR. JUSTICE T G SHIVASHANKARE GOWDA)

This is a petition filed by the accused Nos.1 to 3 seeking grant of regular bail in Crime No.139/2024 of Babaleshwar Police Station for the offence punishable under Section 103(1) read with Section 3(5) of Bharatiya Nyaya Sanhita, 2023(for short, 'BNS').



2. Brief facts of the case are, on 15.09.2024 at 10.15 hours Babaleshwar Police received a complaint from one Mamataj Ladsab Nadaf and registered the case in Crime No.139/2024 for the offence punishable under Section 103(1) read with Section 3(5) of BNS alleging that there was an incident in the year 2020 that her son Modin (in short, 'deceased') had taken a photograph of the accused No.1. In this connection, she had filed a complaint to the police in Crime No.116/2020 and the same is pending before the jurisdictional Court.

2(a) In this background, the husband of accused No.1 had sent her to her parental home. The accused Nos.2 and 3 are the parents of the accused No.1, were prosecuting ill-will against the deceased since because of him, the matrimonial life of their daughter is strained.

2(b) On 14.09.2024, at about 10.00 p.m., the deceased informed the complainant that he has received a call for hire, left home in his goods vehicle and he did not return. On 15.09.2024 at 7.00 a.m., she received a call



from one Ravi that near Sangolli Rayanna Circle of Katral village, his son found dead beneath the goods vehicle. Hence, along with her relatives, she went to the spot and ascertained that the deceased was murdered by somebody. She set the law into motion suspecting the hand of the accused persons in committing the murder of her son. After registering FIR, accused Nos.1 to 3 were apprehended, subjected to judicial custody on 16.09.2024. Accused persons seeking grant of regular bail, approached I Addl. Sessions Judge, Vijayapura in Crl.Misc. No.1500/2024. By the order dated 04.10.2024, the petition came to be dismissed. Now the petitioners are before this Court for grant of regular bail.

3. In spite of issuing notice, the State has not filed any objection statement. In spite of intimating the learned State Public Prosecutor about posting of the matter before this Court, there is no representation on behalf of the State. The matter was heard and reserved for orders on 13.11.2024. Till now there is no representation on behalf



of the State. Hence, this Court is constrained to pronounce the order.

4. Heard the arguments of Sri Manvendra Reddy, learned counsel for petitioners/accused.

5. It is contended by the learned counsel for petitioners that according to the prosecution, there was an incident took place in the year 2020 where the deceased who came near the house of the accused No.1, had taken her photograph and he had misused it. For this reason, a police complaint was filed against him registering the case against him. After the investigation in the said case, charge sheet was filed and the deceased was facing trial. All of a sudden, after lapse of four years, a complaint has been filed naming the petitioners. As per the allegations made in the FIR that on 14.09.2024, the deceased left the home at 10.00 p.m. and at 7.00 a.m. on 15.09.2024, he was found dead. The incident has taken place during night hours and there are no eyewitnesses to the incident. Only because of the previous complaint filed against the



deceased, the name of the petitioners is brought in the FIR. The petitioners have already arrested, they have assisted the investigation, no incriminating material is recovered at their instance, they are ready to abide by any condition and ready to face trial after filing of the charge sheet. Till now no charge sheet has been filed and he sought for grant of bail imposing any condition.

6. I have given my anxious consideration to the arguments advanced by the learned counsel for petitioners and perused the material on record.

7. On careful perusal of the averments made in complaint, it is interesting to note that complainant Smt.Mamataj had three children by name Kousar, Yasin and Modin. Modin is the deceased. The complainant is residing along with her son Modin, his wife Shainaz and his four children in farmhouse and first son is residing in the village. It also points out that 5 to 6 years ago, the deceased used to go to Arjunagi, Katral and Sangapur villages of Babaleshwar for loading milk in his goods



vehicle. In the year 2020, he got acquainted with the accused No.1 and got clicked a photo with her. In this regard, accused No.1 registered a case before Babaleshewar police station in Crime No.116/2020 and the said case is pending before the Court. Due to this incident, the husband of accused No.1 sent back her to parental home and the accused Nos.2 and 3 being the parents of accused No.1 got upset that the matrimonial life of their daughter got broken due to the act of the deceased.

8. The averments made in the complaint also point out that at 10.00 p.m. on 14.09.2024, the deceased informing his wife and mother, left the home along with goods vehicle to attend the hire. On 15.09.2024 at 7.00 a.m., the complainant received a phone call from one Ravi that her son found dead near Sangolli Rayanna Circle at Katral village. Hence, she went to the spot and found a size stone near the dead body with bloodstains and she suspected the hands of the accused persons and



mentioned their names as suspects in the FIR. Thereupon the accused persons were apprehended, subjected to judicial custody and now they are before this Court for grant of bail.

9. There is no material which clearly points out that at the instance of accused persons any recovery was effected by the Investigating Officer. On behalf of the State there is no representation in spite of intimation sent to the learned State Public Prosecutor. This clearly goes to show that the State has not shown any inclination to contest the matter. The prosecution did not place any case diary nor filed any counter to bail petition seeking rejection of bail.

10. On careful perusal of the averments made in the complaint, it is thus clear there is no direct evidence against the accused persons, only for the reason of some previous incident that took place four years back, names of the accused are mentioned in the complaint as suspects. Nothing is brought on record from the



prosecution to explain *prima facie* circumstances which explain the involvement of the petitioners. The petitioners are in judicial custody for more than two and half months. They have assisted the investigation and there is no *prima facie* material to reject the request of the petitioners for grant of regular bail. Imposing suitable conditions, they may be extended regular bail. Hence, the petitioners have made out a ground to allow the petition. In the result, the following:

ORDER

The petition is allowed.

The petitioners/accused are hereby directed to be released on regular bail in Crime No.139/2024 of Babaleshwar Police Station for the offence punishable under Section 103(1) read with Section 3(5) of BNS on executing a personal bond for a sum of Rs.1,00,000/- each with one surety for the likesum to the satisfaction of the jurisdictional Magistrate subject to following conditions:



- (i) Petitioners shall not indulge in tampering the prosecution witnesses;
- (ii) Petitioners shall not leave the jurisdiction of Babaleshwar without prior permission of the jurisdictional Magistrate;
- (iii) Petitioners shall available themselves for interrogation as and when call for by the investigating officer.

Sd/-
(T G SHIVASHANKARE GOWDA)
JUDGE