



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF NOVEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

CRIMINAL APPEAL NO.835 OF 2024 (U/S 14(A) (2))

C/W

CRIMINAL APPEAL NO.1075 OF 2024 (U/S 14(A) (2))

IN CRL.A NO.835/2024:

BETWEEN:

K.R. RAJESH @ RAJI @ KUNDURU RAJI
(AS MENTIONED IN THE CHARGESHEET)
S/O RAMAKRISHNAPPA,
AGE. 35 YEARS, R/AT KUNDURU,
TUMAKURU TALUK, TUMAKURU DISTRICT-572130.

- APPELLANT

(BY SRI. SUNIL KUMAR S., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA BY KYATHASANDRA P.S.
REP. BY LEARNED STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING COMPLEX, BENGALURU-560 001.

2. SMT. SAVITHA W/O LATE RAVI KUMAR H.R.
AGE. 33 YEARS, NEAR CHOWDESHWARI TEMPLE,
DEVARAYANAPATNA MAIN ROAD,
BATAWADI, TUMKURU-572104.

- RESPONDENTS

(BY SMT. RASHMI JADHAV, ADDL. S.P.P. FOR R1;
NOTICE TO R2 IS SERVED)

THIS CRL.A IS FILED U/S 14(A)(2) OF SC/ST (PREVENTION OF ATROCITIES) ACT 1989, PRAYING TO SET ASIDE THE ORDER DATED 06.04.2024 IN SPL.C.C.NO.444/2019 PASSED BY THE PRINCIPAL CITY CIVIL & SESSIONS JUDGE, BENGALURU (CCH-1) AND ENLARGE THE APPELLANT/ACCUSED NO.4 ON BAIL IN CRIME NO. 222/2018 OF KYATHASANDRA P.S. FOR THE OFFENCE P/U/S. 143, 147, 148, 120(B), 212, 302, 201 R/W 149 OF IPC AND SEC. 3(2)(V) OF SC/ST(POA) ACT 1989 AND SEC.3(1)(I),(2),(3)(4) OF KCOCA, 2000 ON SUCH TERMS AND CONDITIONS IN THE ENDS OF JUSTICE & ETC.





IN CRL.A NO.1075/2024:

BETWEEN:

JOMAN V. GEROGE S/O GEORGE CHERIAN
AGE. 32 YEARS, RESIDING AT 273, 6TH CROSS,
OPP: AMOGHA HOTEL, LAGGARE MAIN ROAD,
PARVATHI NAGARA, BENGALURU.

- APPELLANT

(BY SRI. SUDHANVA D.S., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA BY KYATHASANDRA P.S.
REP. BY LEARNED STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING COMPLEX,
BENGALURU-560001.

2. SMT. SAVITHA W/O LATE RAVI KUMAR H.R.
AGE. 33 YEARS, NEAR CHOWDESHWARI TEMPLE,
DEVARAYAPATNA MAIN ROAD,
BATAWADI, TUMKURU-572104.

- RESPONDENTS

(BY SMT. RASHMI JADHAV, ADDL. S.P.P. FOR R1;
NOTICE TO R2 IS SERVED)

THIS CRL.A IS FILED U/S.14(A)(2) OF SC/ST (PREVENTION OF ATROCITIES) ACT 1989 PRAYING TO SET ASIDE THE ORDER DATED 06.04.2024 IN SPL.C.C.NO.444/2019 PASSED BY THE HON'BLE PRINCIPAL CITY CIVIL AND SESSIONS JUDGE BENGALURU(CCH-1) AND ENLARGE THE APPELLANT/ACCUSED NO.9 ON BAIL IN CRIME NO.222/2018 OF KYATHASANDRA P.S FOR THE OFFENCE P/U/S 143, 147, 148, 120(B), 212, 302, 201 R/W 149 OF IPC AND SEC.3(2)(V) OF SC/ST (POA) ACT, 1989 AND SEC.3(1)(I)(2)(3)(4) OF KCOCA ACT,2000 ON SUCH TERMS AND CONDITIONS IN THE ENDS OF JUSTICE & ETC.

THESE CRIMINAL APPEALS, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

ORAL JUDGMENT

These two appeals arise from order dated 06.04.2024 in Spl. C.C. No. 444/2019 on the bail applications filed by accused 4 and 9. The Special Court rejected their bail applications.

2. Heard Sri Sunil Kumar, learned counsel for the appellant in Crl. A. No. 835/2024, Sri Sudhanva D.S, learned counsel for the appellant in Crl. A. No. 1075/2024 and Smt. Rashmi Jadhav, learned Addl. SPP for the State.

3. In connection with the incident that occurred on 30.09.2018 at 8.30 a.m. in front of a tea-shop located in the service road of Batawadi, NH-48, Tumkur, these two appellants are facing trial along with other accused. Ravikumar was the person who was killed in the incident. Though several grounds have been urged in the appeal memo, they cannot be considered. According to the appellants, because many witnesses so far examined have turned hostile, it cannot be said that prosecution case is



worth believable. In this regard it is to be stated that merely because some of the witnesses turned hostile, it does not mean that the Court cannot rely upon the testimonies of the investigating officers, if the investigation appears to be properly made. Anyway it is for the trial court to appreciate the evidence. Therefore these grounds do not entitle the appellants to claim bail. However it is to be noted that accused no.8 was admitted to bail by this court in Crl. A. No. 205/2023. One of the grounds urged in the appeal is that accused 4 and 9 are entitled to be released on bail on the ground of parity.

4. Smt. Rashmi Jadhav submits that parity cannot be extended to these two appellants because while allowing Crl. A. No. 205/2023 it was observed by this Court that accused no.8 was not identified by the witnesses during identification parade. That was the main reason for granting bail to accused no.8, but so far as appellants are concerned they have been identified. This shows that they were involved in killing Ravikumar. Learned counsel for



the appellants replied that even with respect to these two appeals all the witnesses did not identify and only some of the witnesses identified them during test identification parade.

5. Learned counsel for the appellants also submit that there are 225 witnesses and so far 18 witnesses have been examined. Appellants are in judicial custody for more than 6 years. Delay in the trial may be considered for enlarging the appellants on bail.

6. It is true that while deciding Crl. A. No. 205/2023 the identification of accused no.8 was doubted because the witnesses knew about them before test identification parade was held and therefore test identification parade was doubted. Be that as it may, if the charge sheet is seen the overt acts attributed to accused 4 and 9 are same as the overt acts attributed to accused no.8 who has been granted bail. If accused no.8 is on bail already, it is not justifiable if bail is not granted to accused 4 and 9. The Addl. SPP expresses apprehension that the witnesses



are likely to be threatened because already CW3 was killed at the instance of accused 1 and 3. The apprehension expressed by the Addl. SPP cannot be ignored but at the same time if these appellants are entitled to claim parity, it cannot be just brushed aside. They are in jail for the last six years. The appellants may be admitted to bail by subjecting them to stringent conditions. Therefore the following order:

ORDER

The order dated 06.04.2024 in Spl. C.C. No. 444/2019 on the file of The Principal City Civil and Sessions Judge at Bengaluru, is set aside. The applications filed by the appellants u/S 439 Cr.P.C. are allowed. Accused 4 and 9 are ordered to be released on bail on the following conditions;

- (1) Each of accused 4 and 9 shall execute a bond for Rs. 2,00,000/- and provide two sureties to the likesum for the satisfaction of the trial court;



- (2) Each of them shall provide cash security of Rs.1,00,000/-;
- (3) They shall not threaten the witnesses and tamper with evidence;
- (4) They shall regularly appear before the trial court till trial is concluded;
- (5) Till trial is concluded they shall not enter Tumkur District. If it is found that they have entered Tumkur city or any part of Tumkur District stealthily, this order stands cancelled automatically;
- (6) They shall mark their attendance at Halsoor Gate Police Station once in a week preferably on a Sunday between 9 am and 12 noon till trial is concluded;
- (7) They shall not get involved in any crime in future;



- (8) Registration of any FIR against accused 4 and 9
will be viewed seriously;
- (9) The deposit of cash security is condition precedent
for release of accused on bail.

Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE

BVV
LIST NO.: 19 SL NO.: 1