



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

CRIMINAL APPEAL NO. 1419 OF 2023

Between:

1. Shivaprasad @ Shivu @ Tinku (A-3),
S/o Srinivas,
Aged about 21 years.
R/at C/o Ashwathamma,
3rd Main Road, 3rd Cross,
Bachanna Layout, B.Channasandra,
Kasturi Nagara, Bengaluru-560043.
2. Abhishek @ Abhi
S/o Kumar K., (A-4),
Aged about 25 years,
R/at No.135, 5th Cross,
BEML Layout, Near IJ Factory,
T.C.Palya, Bengaluru-560049.

...Appellants

(By Sri Veeranna G. Tigadi, Advocate)

And:

1. The State of Karnataka
by Avalahalli Police Station,
Rep. by State Public Prosecutor,
High Court of Karnataka,
Bengaluru-560001.
2. Roopa V.,
W/o Venkatesh @ Kulla Venkatesh,
Aged about 42 years,

Digitally signed
by VEERENDRA
KUMAR M
Location: HIGH
COURT OF
KARNATAKA



No.244, 3rd Main, 2nd Cross,
Bhovi Colony, Rammurthy Nagar,
Bengaluru-560016.

...Respondents

(By Sri P.Thejesh, HCGP, for R1;
Sri B.S.Prasad, Advocate, for R2)

This Criminal Appeal is filed u/s.14(A)(2) of SC/ST (POA) Act praying to set aside the order dated 15.07.2023 passed by the Court of I Additional District and Sessions Judge, c/c II Additional District and Sessions Judge, Bengaluru, in Crime.No.257/2021 of Avalahalli Police Station for the alleged offence p/u/s 341, 302, 143, 120(B), 147, 148 r/w 149 of IPC and Section 3(1)(r)(s) and 3(2)(va) of SC/ST (POA) Act.

This Criminal Appeal, coming on for admission, this day, judgment was delivered therein as under:

CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

ORAL JUDGMENT

This is an appeal against the order dated 15.07.2023 passed by the II Additional District and Sessions Judge, Bengaluru Rural District, in Special Case 5/2022 rejecting the bail application filed on behalf of accused 3 and 4.

2. The appellants moved the sessions court for bail for the second time. It is to be mentioned here that appeal filed by the appellants earlier, i.e., Criminal Appeal 1574/2022 against the order on the first application for bail was withdrawn and the trial court was directed to



expedite trial. Thereafter the appellants moved the trial court for bail and it was dismissed by virtue of the impugned order.

3. Heard Sri V.G.Tigadi, learned counsel for the appellants and Sri P. Thejesh, learned HCGP for respondent No.1 and Sri B.S.Prasad, learned advocate for respondent No.2.

4. The accused are facing trial in connection with the incident dated 25.09.2021 in relation to homicidal death of one Venkatesh @ Kulla Venkatesh in the background of a land dispute. The projected motive is that there was a civil dispute between accused No.1 and the deceased and for that reason accused No.1 took the help of the other accused to cause the death of the deceased. It is clear that the motive is attributable to accused No.1. But it is the argument of Sri V.G.Tigadi that in spite of a specific direction given by this court in Criminal Appeal 1574/2022 the trial court has not fixed the date for trial. Because of delay in commencement of trial, the appellants can take



advantage for claiming bail. He refers to the order sheet of the proceedings in the sessions trial to submit that since September 2002 the trial court has been adjourning the case for fixing date for trial and thereby there is delay in commencing the trial, let alone its completion. Since the appellants are in custody, they are not responsible for the delay and for this reason they shall be released on bail.

5. Sri P. Thejesh and Sri Prasad in turn argued that the incident occurred in the broad daylight. There are three eyewitnesses to the incident. If the appellants are released on bail, it is sure that they will threaten the witnesses and tamper with the evidence and thereby fair trial cannot be expected.

6. If the application for bail dated 26.06.2023 filed on behalf of the appellants is perused, it becomes clear that the appellants have just stated that if they are not released on bail, they have to languish in judicial custody till disposal of the case which may take considerable time. Very specifically their entitlement for bail on the ground of



delay in and commencement of trial is not taken, however what is stated in para 19 of the bail application gives an inkling to gather the meaning that there is delay in commencement of trial. The appellants are not seeking bail on merits of the case, their specific contention is about delay in commencement of trial, which is a good ground. As has been argued by Sri V.G.Tigadi, the appellants cannot be held responsible for delay in commencement of trial as they are in custody. If the trial court has not fixed the date for trial since 19.09.2022 without any valid reasons, it is a matter of serious concern. Therefore on this ground appellants become entitled to bail. However, to obviate the apprehension expressed by the respondents, the appellants may be subjected to stringent conditions. Hence, the following :

ORDER

Appeal is allowed.

*The order dated 15.07.2023 passed
by the II Additional District and Sessions*



Judge, Bengaluru Rural District, in Special Case 5/2022 rejecting the application of the appellants filed under Section 439 Cr.P.C. is set aside. The said application is allowed.

The appellants are admitted to bail on obtaining from each of them a bond for Rs.2,00,000/- (Rupees two lakhs only) and providing two sureties for the likesum to the satisfaction of the trial court. The appellants are also subjected to following conditions:-

- i. They shall not tamper with the evidence collected by the investigating officer and threaten the witnesses.*
- ii. They shall regularly appear before the trial court till conclusion of the trial.*
- iii. Till conclusion of the trial, the appellants shall appear once in a week before the Avalahalli police station preferably on Sunday*



between 9 am and 12 noon and mark their attendance.

- iv. *They shall not indulge in criminal activity in future. Registration of any FIR against them for any serious offence at any place will give a right to the prosecution for seeking cancellation of bail.*

**Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE**

CKL

List No.: 1 Sl No.: 1