



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.I.ARUN

CRIMINAL PETITION NO.12989 OF 2025

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

BETWEEN:

1. MUHAMMED WAFI
AGED ABOUT 33 YEARS
S/O ABDUL RAZAK,
R/AT DOOR NO.11/113/9,
ULLANJE, MENNABETTU,
KINNIGOLI, MANGALURU TALUK
KARNATAKA - 574 155.

...PETITIONER

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by V
MANJUSHA
BAI
Location: HIGH
COURT OF
KARNATAKA

(BY SRI. ARUNA SHYAM, LEARNED SENIOR COUNSEL
FOR SRI. SUYOG HERELE E., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH MULKI POLICE STATION
REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
HIGH COURT BUILDING
BENGALURU-560 001.

...RESPONDENT

(BY SRI. THEJESH P., HCGP)



THIS CRL.P. IS FILED U/S.439 OF CR.P.C. (FILED U/S.483 OF BNSS) PRAYING TO ALLOW THIS CRIMINAL PETITION AND DIRECT THE RESPONDENT MULKI POLICE STATION TO ENLARGE THE PETITIONER ON REGULAR BAIL IN CONNECTION WITH CRIME NO.038/2020 (ON THE FILE OF THE LEARNED VI ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K., MANGALURU IN SC.NO.47/2021) REGISTERED BY MULKI POLICE FOR THE ALLEGED OFFENCES P/U/S 143, 147, 148, 114, 109, 120(B), 341, 307, 302 READ WITH 149 OF IPC, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION, COMING ON FOR ORDERS THROUGH PHYSICAL HEARING/VIDEO CONFERENCING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.I.ARUN

ORAL ORDER

1. Accused No.2 in S.C.No.47/2021 pending before the Court of VI Additional District and Sessions Judge, Dakshina Kannada, Mangaluru, arising out of Crime No.38/2020 registered by Mulki Police Station, Mangaluru, for the offences punishable under Sections 143, 147, 148, 341, 307, 302 and 395 read with Section 149 of IPC, is before this Court, in this petition filed under Section 483 of BNSS 2023, seeking regular bail.

2. Heard the learned counsel for the petitioner and the learned HCGP for the respondent - State.



3. FIR in Crime No.38/2020 was registered by Mulki Police Station, Dakshina Kannada District, initially for offences punishable under Sections 143, 147, 148, 341, 307, 302, 395 and 149 of IPC against one Hakim and others based on the first information dated 05.06.2020 received from Imran, son of the deceased. During the course of investigation, petitioner herein was arrested on 07.06.2020 and remanded to judicial custody. After completion of investigation, charge sheet has been filed against 10 persons and petitioner is arraigned as accused No.2 in the charge sheet. His bail application filed before the Trial Court in S.C.No.47/2021 was rejected on 16.07.2025 and therefore, he is before this Court in this petition.

4. Learned counsel for the petitioner having reiterating the grounds urged in the petition submits that petitioner is in custody for more than 6 years. All the material charge sheet witnesses have been already examined. Allegations as against accused Nos.2 to 10 are similar. Accused Nos. 1, 3, 6, 7, 9 and 10 have been granted regular bail by this Court. Accordingly, he prays to allow the petition.



5. Per contra, learned HCGP, who has opposed the petition does not dispute the submission made by learned counsel for the petitioner. He however brings to the notice of this Court that case before the Trial Court is at the stage of recording statement of the accused under Section 313 of Cr.P.C.

6. A perusal of the charge sheet allegations would go to show that accused No.1 had conspired with accused Nos.2 to 10 to commit the murder of deceased Abdul Lathif, CW2 and CW3. In furtherance of said conspiracy, on 05.06.2020, accused Nos.2 to 10 had followed CW2 to 4, who were traveling in a car bearing registration No.MH-06-AB-7677 and at about 04.05 p.m., accused Nos.2 to 10 allegedly intercepted the car in which CW2 to 4 were traveling and thereafter, assaulted them. At that time, Abdul Lathif also came to the spot and accused No.6 allegedly pushed him and all the other accused persons chased Abdul Lathif and assaulted him with deadly weapons and committed his murder. In the alleged incident, CW2 and CW3 also had suffered grievous injuries. In the charge sheet, allegation of assaulting Abdul Lathif, CW2 and CW3 is found as against accused Nos.2 to 10.



7. Out of 78 charge sheet witnesses cited in the present case, till date only 40 charge sheet witnesses have been examined as PW1 to PW22. It is not in dispute that all the material charge sheet witnesses including injured eye witnesses have been already examined before the Trial Court as on this date. Accused No.1 was granted regular bail by this Court in Crl.P.No.12761/2024. The Co-ordinate Bench of this Court thereafter had granted regular bail to accused No.6 in Crl.P.No.7507/2025. This Court has granted regular bail to accused Nos.9 and 10 in Crl.P.No.13709/2024 disposed of on 05.06.2025. Further accused No.3 has been granted bail in Crl.P.No.1517/2026 disposed on 22.06.2026.

8. This Court has subsequently granted regular bail to accused No.7 in Crl.P.No.7916/2025. Allegations as against accused Nos. 3, 6, 7, 9 and 10, who have been granted regular bail by this Court, are similar to the allegations found in charge sheet against the petitioner. Therefore, petitioner is entitled for the relief sought for in this petition on the ground of parity.

9. The Hon'ble Supreme Court in case of **Javed Gulam Nabi Shaik Vs State of Maharashtra and Another** reported



in **2024 SCC Online SC 1693** in paragraph No.19 has observed as follows:

"19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime."

10. Since material charge sheet witnesses, including the alleged eye witnesses, have been already examined before the Trial Court, there cannot be any apprehension that petitioner may tamper with the material charge sheet witnesses. Under the circumstances, I am of the view that without expressing any opinion on merits and demerits of the case, the prayer made by the petitioner for grant of regular bail needs to be answered affirmatively considering the period of his incarceration. Accordingly, the following order:-



11. The petition is allowed. The petitioner is directed to be enlarged on bail in S.C.No.47/2021 pending before the Court of VI Addl. District and Sessions Judge, D.K., Mangaluru arising out of Crime No.38/2020 registered by the Mulki Police Station, Mangaluru, for the offences punishable under Sections 143, 147, 148, 341, 307, 302 and 395 read with Section 149 of IPC, subject to the following conditions:

- a. Petitioner shall execute a personal bond for a sum of Rs.1,00,000/- with two sureties for the likesum, to the satisfaction of the jurisdictional Court;
- b. The petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;
- c. The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;
- d. The petitioner shall not involve in similar offences in future;



e. The petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

Sd/-
(M.I.ARUN)
JUDGE

VMC
List No.: 2 SI No.: 2