NC: 2024:KHC-D:18308
CRL.P No. 103660 of 2024

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 17TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MS. JUSTICE J.M.KHAZI

CRIMINAL PETITION NO.103660 OF 2024

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

BETWEEN:

ARBAZ KHAN @ ARABARAJ
S/O. SARDAR KHAN,
AGE. MAJOR,
R/O. KILA AREA, GANGAVATHI,
PRESENT ADD: LAXMI CAMP,
GANGAVATHI, KOPPAL.

...PETITIONER

(BY SMT. RESHMA MADIWALAR, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
BY GANGAVATHI RURAL POLICE STATION,
KOPPAL DISTRICT,
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA AT DHARWAD,
DHARWAD-580011.

...RESPONDENT

(BY SRI ABHISHEK MALIPATIL, HCGP)

Digitally signed by MOHANKUMAR B SHELAR
Location: HIGH COURT OF KARNATAKA

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. (483 OF BNSS), SEEKING TO DIRECT THE RESPONDENT GANGAVATHI RURAL POLICE STATION TO ENLARGE THE PETITIONER/ACCUSED NO.1 ON BAIL IN THE CRIME NO.226/2024 FOR OFFENCES UNDER SECTIONS 132, 109(1), 121(1), 352, 351(2), 238 R/W SECTION 3(5), 281, 125, 125(A) OF BNS 2023 AND SECTION 184 AND 177 OF IMV ACT IN THE INTEREST JUSTICE AND EQUITY.

THIS CRIMINAL PETITION, COMING ON FOR DICTATING ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: THE HON'BLE MS. JUSTICE J.M.KHAZI

ORAL ORDER

(PER: THE HON'BLE MS. JUSTICE J.M.KHAZI)

Petitioner who is arraigned as accused No.1 has filed this petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) to grant him bail in crime No.226/2024 of Gangavathi Rural PS for the offences punishable under Sections 132, 109(1), 121(1), 352, 351(2), 238 r/w Sections 3(5) 281, 125, 125(a) of BNS Act and Section 184 and 177 of IMV Act.

2. In support of the petition, the petitioner has contended that he has not committed the alleged offence and has been falsely implicated. The entire prosecution case is concocted. It is the complainant and his staff who assaulted the petitioner for no reason. Petitioner has produced photograph to show that he was assaulted at the police station and thereafter a false case is registered against him. Petitioner is the only earning member of his family. He is the permanent resident of the address given

in the cause title and there are no chances of him absconding. He is ready and willing to abide by any conditions that may be imposed and offer substantial surety to the satisfaction of the trial court and hence, the petition.

3. Learned HCGP submitted oral objections stating that on 09.10.2024 at 9:30 PM, complainant who is PSI of Gangavathi Rural PS was on Bandobust duty along with the HSC 45 Basavaraj Chinnu and Jeep driver HSC 17 Kanakappa. Around 4:30 PM, they were returning to the police station on Gangavathi-Koppal Main Road. When they were on Dasanal Bridge, a Yamaha RX 135 motorcycle with three persons came in a high speed from Gangavathi side. Petitioner was riding the same in a high speed and wheeling in between. Accused Nos.2 and 3 were the pillion riders. On account of the dangerous riding of the said motorcycle, the last person on the motorcycle fell down. Petitioner also lost control and the motorcycle skid.

3.1 The complainant and his staff stopped the jeep and helped pillion riders i.e., accused Nos.2 and 3 to get up. When they tried to help the petitioner, suddenly he started abusing them as to why they are touching him. Basavaraj questioned as to why he is speaking in such a manner. Suddenly, petitioner caught hold of Kanakappa and started squeezing his neck and also tried to assault him with a stone. When Basavaraj tried to video record the incident, suddenly petitioner snatched his cell phone and threw it in the Tungabhadra canal. When Basavaraj questioned him, all the three accused persons, including the petitioner assaulted him with fist on his chest and they tried to push him into the canal. The villagers, namely Ningappa Balikai and others rescued Basavaraj.

3.2 Petitioner abused all of them in filthy language saying that already he has assaulted 3-4 police personnel and nobody is going to touch him. Even if arrested, he would come out on bail in no time. He was caught by the villagers. The complainant had called the police station

and got one more police jeep. The motorcycle ridden by the petitioner was not having registration number. It's chases number is also not properly visible. It's engine number is 145239709. All the three accused persons were brought to the police station and they are subjected to medical examination, as they were injured in the accident. Petitioner is a rowdy sheeter and involved in several cases.

3.3 Based on the complaint, case is registered in crime No.226/2024 for the offences punishable under sections 132, 109(1), 121(1), 352, 351(2), 238 r/w Sections 3(5) 281, 125, 125(a) of BNS Act and Section 184 and 177 of IMV Act against accused Nos.1 to 3. They are arrested and subjected to medical examination. They are produced before the trial court and remanded to the judicial custody. The motorcycle in question is subjected to examination by the Motor Vehicles Inspector. The blood samples of the accused persons were also sent for chemical examination for the presence of alcohol.

Complainant and other officials are also subjected to medical examination. Later, accused Nos.2 and 3 are released. Detailed investigation is conducted and charge sheet is ready for filing. Several cases are pending against the petitioner and he is a rowdy sheeter. In the event of granting bail, the petitioner may threaten or tamper with the witnesses. He may also involve in other cases and pray to reject the petition.

4. Heard arguments and perused the record.

5. From the complaint averments, it is evident that on 09.10.2024, while complainant who is working as a PSI in Gangavathi Rural PS was returning from bandobust duty, on the Gangawati–Koppal Road, near Dasanal Bridge, petitioner and accused Nos.2 and 3 were found moving on a motorcycle. Petitioner was riding the same in a high speed in a rash or negligent manner and also wheeling it. As a result of the same, the second pillion rider fell off the motorcycle. The complainant and his staff stopped the jeep and helped

the pillion riders to get up and when they were about to help the petitioner, he started abusing them. He caught hold of Kanakappa Head Constable and tried to squeeze his neck and also assaulted with a stone on his leg. When Head Constable Basavaraj started recording the same on his cell phone, petitioner snatched and threw it in the canal. At this stage, accused Nos.2 and 3 also joined the petitioner and tried to throw Basavaraj into the canal water. He was saved with the intervention of villagers.

6. The material placed on record indicates that this is not the first case in which the petitioner is involved. On the other hand, he is a rowdy sheeter and involved in the following cases;

i) Crime No.8/2018 of Ganvavathi PS.

ii) Crime No.208/2018 of Gangavathi PS.

iii) Crime No.54/2019 of Gangavathi PS.

iv) Crime No.53/2021 of Gangavathi PS.

v) Crime No.100/2023 of Gangavathi PS.

vi) Crime No.141/2020 Gangavathi Rural PS.

7. Already accused Nos.2 and 3 are released on bail. Though the offence in the present case are not very serious, having regard to the fact that the petitioner is rowdy sheeter and is involved in several cases and despite the same, he has not desisted from involving himself in similar cases, this court is of the considered opinion that he is not entitled for bail and accordingly the following;

ORDER

Petition filed by the petitioner/accused No.1 under Section 483 of BNSS is here by rejected.

Sd/-
(J.M.KHAZI)
JUDGE

MBS, CT: UMD
List No.: 1 Sl No.: 22