NC: 2024:KHC-D:18305
CRL.P No. 103710 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.103710 OF 2024**

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

**BETWEEN:**

AMIR S/O. MOHAMMAD SHAFI TAMATAGAR,
AGE. 26 YEARS, OCC. PAINTING CONTRACTOR,
RESIDENT OF RASOOLPUR ONI, DHARWAD.

...PETITIONER

(BY SRI A.P. MURARI, ADVOCATE)

**AND:**

STATE OF KARNATAKA,
THROUGH POLICE SUB-INSPECTOR,
SUB URBAN POLICE STATION, DHARWAD,
REP. BY THE ADDL. STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH.

...RESPONDENT

(BY SRI PRAVEENA Y.DEVAREDDIYAVARA, HCGP)

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

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. (UNDER SECTION 483 OF BNSS, 2023) SEEKING TO ALLOW THIS PETITION ENLARGING THE PETITIONER-ACCUSED NO.1 ON BAIL IN DHARWAD SUB URBAN P.S. CRIME NO. 223/2024 REGISTERED FOR THE OFFENCE P/U/SEC. 109, 115(2), 118(1), 126(2), 3(5), 351(2) AND 352 OF BNS, 2023 PENDING ON THE FILE OF PRL. CIVIL JUDGE AND JMFC, DHARWAD, ON SUCH TERMS AND CONDITIONS IN THE INTEREST OF 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 Nagarika Suraksha Sanhita, 2023 (BNSS) is seeking regular bail in crime No.223/2024 of Dharwad Suburban PS for the offences punishable under Sections 109, 115(2), 118(1), 126(2), 3(5), 351(2) and 352 of BNS.

2. In support of the petition, the petitioner has contended that a false case is registered against him and others at the instance of the complainant, who is a police constable. It is a simple case of road rage done by the complainant using his authority against the innocent commuters, namely accused Nos.1 to 3. Even though the complaint given by accused Nos.1 to 3 was prior in point of time, it is registered as NCR and the subsequent complaint filed by the police constable is registered against the petitioners.

3. Even though the accused persons were arrested on 10.11.2024 at 11:30 p.m., in the arrest memo, it is shown as arrested on 11.11.2024 at 2:30 p.m. Accused Nos.1 to 3 went to the suburban police station to lodge complaint. They were made to wait till the arrival of complainant at 11:00 p.m. and thereafter his complaint was registered. Even though the accused persons are innocent, in a high-handed manner, complaint is registered against them and they are arrested. Unnecessarily the provisions of Section 109 of BNS is incorporated to make it a heinous case. Petitioner is in custody since 10.11.2024. Petitioner 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 pray to allow the petition.

4. Learned HCGP submitted oral objections stating that complainant is a reserved police constable, working at Police Headquarter, Dharwad. On 10.11.2024 at 5:30 p.m., he and his friend Muthanna Khanapur were going to

Swagath tailor on motorcycle bearing registration No.KA-01/JQ-4483. Near K.C.Park, opposite to post office and about hundred meters from the Swagath tailor shop, a white colour car bearing No.KA-25/MC-2043 was parked in the middle of the road and its door was open. Since there was no space for moving, complainant requested the persons in the car to park the car by the side of the road and went to the tailor shop.

5. When they returned, they found all the three inmates of the car waiting and they blocked their way with the car and picked up quarrel with the complainant. They abused him in filthy language and assaulted with hands. When complainant disclosed that he is a police constable, they did not stop. They assaulted him with fist. One of them took out a shaving blade and wielded towards the complainant. When he evaded the blow, it fell on his forehead and he suffered bleeding injury. The complainant's friend Muthanna Khanapur and other public intervened and rescued him. The accused persons left the

place giving threat. They also disclosed their names and challenged them that they can do whatever they want.

5.1 In respect of the said incident, complaint is filed by Basavaraj, reserved police constable. On the basis of the said complaint, the case is registered, investigation is taken up and accused Nos.1 to 3 are arrested. They are produced before the Magistrate court and remanded to judicial custody. A spot mahazar was drawn and the blade found at the spot is recovered. The investigation is going on. The allegations made against the accused are very grave and as such, petitioner is not entitled for bail and pray to reject the bail petition.

6. Heard arguments and perused the record.

7. The allegations against the petitioner and others are that on 10.11.2024 at 5:30 p.m., petitioner and others parked the car bearing No.KA-25/MC-2043 in the middle of the road and kept it door open. Complainant who was proceeding on the motorcycle along with his

friend, advised them to park the car by the side of the road so as not to affect the traffic. Petitioner and two others picked up quarrel with them, abused them in filthy language, assaulted with hands and one of them took out shaving blade and assaulted on the neck of the complaint, and when he evaded the blow, it fell on his forehead, causing bleeding injury. On the intervention of the general public, accused persons including the petitioner left the place giving threat to them.

8. On the other hand, the petitioner has contended that it was the complainant and his friend who quarreled with them, acted in high manner and though they went to the police station to file the complaint, they were made to sit till 11:00 p.m. and when complainant returned to the police station, false complaint was taken from him and in respect of the complaint filed by the petitioner and two others, NC report is given.

9. Anyhow, the date of incident is 10.11.2024. The accused persons are arrested on the same day. The

alleged weapon used by the accused persons is recovered from the spot. Already the bloodstained jerkin of the complainant is seized. The incriminating articles are sent to FSL for chemical examination. The statements of the witnesses are recorded. Having regard to the nature of the allegations made, major portion of the investigation is completed. In the above facts and circumstances, this court is of the considered opinion that petitioner is entitled for bail. Of course, there is apprehension on the part of the prosecution that the petitioner will threaten or temper the witnesses. The same may be overcome by imposing stringent conditions, and accordingly, the following;

ORDER

Petition is allowed. Petitioner/accused No.1 is released on bail in crime No.223/2024 of Dharwad Suburban PS for the offences punishable under Sections 109, 115(2), 118(1), 126(2), 3(5), 351(2) and 352 of BNS, subject to following:

CONDITIONS

a) The petitioner/accused No.1 shall execute a personal bond in a sum of Rs.50,000/- with two sureties for the like-sum.

b) He shall make himself available for the purpose of investigation as and when required and he shall co-operate with the investigation.

c) He shall furnish his residential address proof and shall inform the investigating officer/Court if there is any change in the address.

d) He shall not threaten or tamper with the prosecution witnesses either directly or indirectly.

e) He shall not indulge in any criminal activities.

f) He shall be regular in attending the Court proceedings.

**Sd/-**
**(J.M.KHAZI)**
**JUDGE**

MBS, CT: UMD
List No.: 1 Sl No.: 24