NC: 2024:KHC:52831
CRL.P No. 13525 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 13525 OF 2024

BETWEEN:

1. MOHAMMAD NIZAMUDDIN
@ IJJU @ RIZWAN
S/O LATE IBRAHIM
AGED ABOUT 30 YEARS
R/AT DOOR NO 5-51/3
NEAR RATHIB KOTTIGE
AMMEMMAR, PUDU VILLAGE
BANTWAL - 574 143.

2. MOHAMMAD ADNAN @ ADDU
S/O ABUBAKKAR
AGED ABOUT 24 YEARS
R/AT DOOR NO 5-51/3
NEAR RATHIB KOTTIGE
AMMEMMAR, PUDU VILLAGE
BANTWAL - 574 143.

3. ZAHID @ JAHI
S/O LATE A SALI
AGED ABOUT 26 YEARS
R/AT K M MANZIL SCHOOL
NEAR AMMEMAR, PUDU VILLAGE
BANTWAL - 574 143.

...PETITIONERS

(BY SRI DINESHKUMAR RAO K, ADV.)

AND:

THE STATE OF KARNATAKA
BY BANTWAL RURAL P.S
BANTWAL - 574 101.

...RESPONDENT

(BY SRI CHANNAPPA EERAPPA, HCGP)

Digitally signed by NANDINI MS
Location: High Court of Karnataka

THIS CRL.P IS FILED U/S.439 (FILED U/S.483 BNSS) CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CRIME NO.91/2024 OF BANTWAL RURAL POLICE STATION, BANTWAL PENDING ON THE FILE OF THE ADDITIONAL CIVIL JUDGE (Jr.Dn.) AND JMFC COURT, BANTWALA D.K., IN (REGISTERED FOR THE OFFENCE P/US/ 189(2), 190(2), 191(3), 352, 115(2), 118(1), 118(2), 109, 190 OF BNS.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

1. Learned Counsel for the petitioners submits that petition may be dismissed as not pressed as against petitioner no.1/accused no.4 with liberty to petitioner no.1 to file a fresh petition before the Sessions Court after the charge sheet is filed.

2. The aforesaid submission is placed on record. Petition is dismissed as withdrawn as against petitioner no.1 with liberty as prayed for.

3. Accused nos.5 & 7 in Crime No.91/2024 registered by Bantwala Rural Police Station, Dakshina Kannada District, for the offences punishable under Sections 189(2), 191(2), 191(3), 352, 115(2), 118(1), 118(2), 109, 190 of BNS, 2023, are

before this Court under Section 483 of BNSS, 2023, seeking regular bail.

4. Heard the learned Counsel for the parties.

5. FIR in Crime No.91/2024 was registered by Bantwala Rural Police Station, Dakshina Kannada District, against Mansur and 13 others for the aforesaid offences on the basis of the first information dated 23.10.2024 received from Sadik S/o Hammabba who is the brother of injured Thaslim. During the course of investigation of the case, petitioners who were arrayed as accused nos.8 & 12 in the FIR were arrested on 27.10.2024 and subsequently remanded to judicial custody. In the remand application, they are arrayed as accused nos.5 & 7. Bail application filed by the petitioners before the jurisdictional Sessions Court in Crl. Misc. No.1030/2024 was rejected on 06.12.2024. Therefore, they are before this Court.

6. Learned Counsel for the petitioners submit that the allegation of assaulting injured Thaslim with weapons is only as against accused nos.1 to 6 in the FIR. Petitioner are arrayed as accused nos.8 & 12 in the FIR and as accused nos.5 & 7 in the remand application. The allegation as against accused nos.5 &

7 is that they had assaulted injured Thaslim with their hands and legs. The injured has been discharged from the hospital. Accordingly, he prays to allow the petition.

7. Per contra, learned HCGP has opposed the petition. He submits that accused no.5 is a person with criminal antecedents. Both the accused have actively participated in assaulting the injured who has suffered grievous injuries. Investigation of the case is under progress. Accordingly, he prays to dismiss the petition.

8. Perusal of the first information would go to show that there was ill-will between injured Thaslim and accused no.1 - Mansur. On 22.10.2024 at about 11.00 p.m., Mansur allegedly had called injured Thaslim over his mobile phone and after abusing him had asked him to come out of his house. When Thaslim and his friends went towards the place where accused no.1 was present along with his friends, the accused persons after abusing Thaslim and his friends, allegedly assaulted Thaslim with deadly weapons.

9. The allegation of assaulting Thaslim with weapons is only as against accused nos.1 to 6 named in the FIR. Petitioners are

arrayed as accused nos.8 & 12 in the FIR and as accused nos.5 & 7 in the remand application. The allegation as against accused nos.5 & 7 is that they had assaulted Thaslim with their hands and legs. Though it is brought to the notice of this Court that accused no.5 has got certain criminal antecedents, learned Counsel for the petitioners submits that two cases registered against him in C.C.No.481/2024 and C.C.No.502/2024 are both for the offence punishable under Sections 324 IPC and in both the cases he has been enlarged on bail. Undisputedly accused no.7 has no criminal antecedents. The only allegation against the petitioners herein who are arrayed as accused nos.5 & 7 in the remand application is that they have assaulted the injured with their hands and legs. They are in custody from 27.10.2024. Major portion of the investigation is completed. Under the circumstances, I am of the opinion that the prayer of petitioner nos.2 & 3/accused nos.5 & 7 for grant of regular bail is required to be answered affirmatively. Accordingly, the following order:

10. Petition is allowed in part. Petition as against petitioner no.1/accused no.4 is dismissed as withdrawn with liberty as prayed for. Petition as against petitioner nos.2 & 3/accused

nos.5 & 7 is allowed. Petitioner nos.2 & 3/accused nos.5 & 7 are directed to be enlarged on bail in Crime No.91/2024 registered by Bantwala Rural Police Station, Dakshina Kannada District, for the offences punishable under Sections 189(2), 191(2), 191(3), 352, 115(2), 118(1), 118(2), 109, 190 of BNS, 2023, subject to the following conditions:

a) Petitioner nos.2 & 3/accused nos.5 & 7 shall execute personal bond for a sum of Rs.1,00,000/- each with two sureties for the likesum, to the satisfaction of the jurisdictional Court;

b) Petitioner nos.2 & 3/accused nos.5 & 7 shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts their appearance for valid reasons;

c) Petitioner nos.2 & 3/accused nos.5 & 7 shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) Petitioner nos.2 & 3/accused nos.5 & 7 shall not involve in similar offences in future;

e) Petitioner nos.2 & 3/accused nos.5 & 7 shall not leave the jurisdiction of the Trial Court

without permission of the said Court until the case registered against them is disposed off.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

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