HC-KAR

CNR: KAHC010692442026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 15347 OF 2026

BETWEEN:

1. ARUN KUMAR @ ARUN
   S/O LATE THAYAPPA
   AGED ABOUT 25 YEARS
   R/AT BEGENAHALLI VILLAGE
   HOSUR TALUK, KRISHNAGIRI DISTRICT
   TAMIL NADU - 635 109.

2. LAKSHMINARAYANA @TIMMA
   S/O SRINIVAS
   AGED 21 YEARS
   R/ATMARANAYAKANAHALLI VILLAGE
   ATTIBELE HOBLI, ANEKAL TALUK
   BANGALORE - 562 106.

3. SUMAN @ SWAG
   S/O SOMASHEKAR
   AGED ABOUT 21 YEARS
   R/ATRACHAMANAHALLI VILLAGE
   ATTIBELE HOBLI
   BANGALORE - 562 106.

...PETITIONERS

(BY SRI KRISHNE GOWDA M, ADV.)

AND:

STATE OF KARNATAKA
STATE BY ATTIBELE P.S.
RPTD. BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE - 560 001.

...RESPONDENT

(BY SRI RAHUL RAI K, HCGP)

Digitally signed by NANDINI D
Location: HIGH COURT OF KARNATAKA

CNR: KAHC010692442026

THIS CRL.P IS FILED U/S.439 (FILED U/S.483 BNSS) CR.P.C PRAYING TO PASS AN ORDER OF BAIL ENALRGEING THE PETITIONER IN CRIME NO.326/2021 OF ATTIBELE POLICE NOW IN S.C.NO.5051/2022 AND PENDING TRIAL BEFORE III ADDL DISTRICT AND SESSIONS JUDGE AT BENGALURU RURAL SIT AT ANEKAL FOR THE OFFENCE P/S/ 302 AND 201 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

Accused Nos.1 to 3 in S.C.No.5051/2022 pending before the Court of III Additional District and Sessions Judge, Bengaluru Rural, sitting at Anekal arising out of Crime No.326/2021 registered by Attibele Police Station, Bengaluru District for the offences punishable under Section 201 and 302 read with Section 34 of IPC, 1860, are before this Court in this successive bail application filed under Section 483 of BNSS, 2023 seeking regular bail.

2. Heard the learned counsel for the parties.

3. FIR in Crime No.326/2021 was registered by Attibele Police Station, Bengaluru District for the aforesaid offences against Arun and another, based on the first information dated 22.10.2021 received from Smt. Sushma W/o. deceased Deepak Kumar. During the course of investigation, petitioners herein were arrested on 01.11.2021 and remanded to judicial custody. After completing investigation, charge sheet has been filed against three persons and accused No.2 named in the FIR was dropped in the charge sheet. Bail application of the petitioners filed before the Trial Court was rejected. Therefore, they had earlier approached this Court in Crl.P.No.7906/2022, which was dismissed by the Co-ordinate bench of this Court on 28.09.2022. Thereafter, they had once again approached this Court in Crl.P.No.12675/2026 on the ground of delay in trial. The said petition was dismissed as not pressed on 18.09.2026, reserving liberty to the petitioners to file a fresh bail application on the said ground before the Trial Court.

Thereafter, petitioners filed a fresh bail application before the Trial Court in Crl.Misc.No.5485/2026 on the ground of delay in trial. The said application was rejected by the Trial Court on 30.09.2026. Therefore, the petitioners are before this Court.

4. FIR in the present case was registered against Arun and one Dorai based on the first information submitted by CW1-Smt. Sushma, who is a hearsay witness. During the course of investigation, the petitioners herein were arrested and charge sheet was subsequently filed against them, in which accused No.2 named in the FIR was dropped from the charge sheet and he is shown as CW18.

5. Charge sheet allegations would indicate that accused Nos.1 to 3 and deceased Bhaskar had quarrelled on the alleged date of incident with regard to certain financial dispute between them. Subsequently, accused No.1 assaulted Bhaskar with a beer bottle on his head and as a result he fell down. The allegation against accused

Nos.2 and 3 is that they had held Bhaskar so as to enable accused No.1 to assault him with beer bottle. After Bhaskar fell down, accused No.1 dropped a stone on his head and committed his murder. Deepak Kumar, who was along with Bhaskar allegedly questioned the accused persons for assaulting Bhaskar and therefore, the accused persons assaulted him and when he fell down, accused No.1 dropped a stone on his head. As a result, Deepak Kumar also succumbed to the injuries at the spot. CW18 is said to be the person who was along with the deceased persons on the alleged date of incident. Though he was named in the FIR as accused No.2, in the charge sheet which is subsequently filed, he is shown as CW18.

6. Petitioners, who have no other criminal antecedents, are in custody in the present case for the last more than five years. As on this date, the trial in the case has not yet commenced. The prosecution has cited 47 charge sheet witnesses in the present case. The Hon'ble Supreme Court in the case of ***Javed Gulam Nabi Shaikh v.***

State of Maharashtra and Another -(2024) 9 SCC 813 at paragraph No.17, has observed as follows:

> *"**17.** 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".*

7. In view of the aforesaid, I am of the opinion that the prayer made by the petitioners for grant of regular bail needs to be answered affirmatively, solely on the ground of their incarceration, without expressing any opinion on the merits and demerits of the case. Accordingly, the following:

ORDER

i) The Criminal Petition is ***allowed***.

ii) The petitioners are directed to be enlarged on bail in S.C.No.5051/2022 pending before the Court of III Additional District and Sessions Judge, Bengaluru Rural sitting at Anekal arising out of Crime No.326/2021

registered by Attibele Police Station, Bengaluru District for the offences punishable under Section 201 and 302 read with Section 34 of IPC, 1860, subject to the following conditions:

a) The petitioners 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) The petitioners 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 petitioners shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioners shall not involve in similar offences in future;

e) The petitioners 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

SHS
List No.: 1 Sl No.: 70