NC: 2025:KHC:7816
CRL.P No. 10583 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S. RACHAIAH

CRIMINAL PETITION NO.10583 OF 2024

BETWEEN:

1. HEMANTH M.K.
S/O MANJACHARY,
AGED ABOUT 19 YEARS,
R/A HOYSALA CIRCLE,
VALLAGARAHALLI,
KENGERI UPANAGARA,
BENGALURU – 560 060.

PERMANENT ADDRESS
NATIVE NEAR
GANAPATHI TEMPLE,
LAKKAVALLI HOBLI,
SHANKAGATTA POST,
BHADRAVATHI TALUK,
SHIVAMOGGA - 577451.

2. M. TEJESHWAR @ THEJAS
S/O SRI MAIKANNAN,
AGED ABOUT 25 YEARS,
R/A NO.593 1ST MAIN ROAD,
NEW BINNY LAYOUT,
MYSURU ROAD,
BENGALURU – 560 059.

...PETITIONERS

(BY SRI. RANGANATHA K., ADVOCATE)

Digitally signed by NARAYANA UMA
Location: HIGH COURT OF KARNATAKA

AND:

STATE OF KARNATAKA
REPRESENTED BY
KAGGALIPURA POLICE STATION
BANGALORE RURAL DISTRICT
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU – 560 001.

…RESPONDENT

(BY SRI. K. NAGESHWARAPPA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 CODE OF CRIMINAL PROCEDURE (U/S 483 BNSS) PRAYING TO ENLARGE THE PETITIONER NO.1 AND 2 / ACCUSED NO.1 AND 3 ON BAIL WITH RESPECT TO CC.NO.4349/2024 (CR.NO.91/2024) OF KAGGALIPURA P.S., AT BENGALURU, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 395, 397, 120(B), 201, 414 OF IPC, WHICH IS PENDING BEFORE THE HON'BLE II ACJM AT BANGALORE, BY ALLOWING THIS PETITION.

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

CORAM: HON'BLE MR. JUSTICE S. RACHAIAH

ORAL ORDER

1. Heard Sri. Ranganatha K., learned counsel for the petitioners and Sri K. Nageshwarappa, learned High Court Government Pleader for the respondent-State.

2. The petitioners – accused Nos. 1 and 3 are before this Court seeking regular bail in Crime No.91/2024 of respondent Police Station, for the offences punishable under Sections 395, 397, 120(B), 201, 414 of Indian Penal Code (for short "IPC").

3. It is the case of prosecution that the complainant lodged a complaint stating that on 22.03.2024 around 11.15 am, she had been to terrace, to dry the clothes, thereafter, she came down and saw that there were three persons who were inside her house. Immediately, one of the members gagged her mouth and another threatened her by showing a knife. Further, she was taken to her bathroom and made her to sit in the bathroom. Thereafter, her mouth was closed by using insulation tape and her hands were tied. One of the persons was standing in front of her by holding knife. After sometime, all the three fled away from the house by locking the door of the bathroom. After sometime, the complainant somehow

managed to untie her hands and cried for help. Thereafter, neighbour, namely, Sunanda went inside the house and opened the door and rescued the complainant.

4. It is further stated that both of them have seen the entire house and they noticed that there are some signs of committing theft in the house. The complainant noticed that several golden articles and a cash of Rs.55,000/- were stolen. Thereafter, she lodged a complaint before the jurisdictional police. The jurisdictional police after conducting the investigation, submitted the charge sheet.

5. It is the submission of the learned counsel for the petitioners that the petitioners are innocent of the alleged offences and they have been falsely implicated in this case. There are no reasonable grounds to believe that the petitioners have committed the offences stated supra.

6. It is further submitted that no prima facie case is made out against the petitioners. No identification parade has been conducted to identify the petitioners. Nothing has been recovered at the instance of the petitioners. Therefore, they may be enlarged on bail by imposing suitable conditions.

Making such submissions, learned counsel for the petitioners prays to allow the petition.

7. *Per contra*, the learned High Court Government Pleader vehemently opposed the bail petition and submitted that the alleged offences are heinous in nature and the petitioners along with other accused have committed heinous offences. The golden ornaments which were stolen from the house of the complainant have been recovered at the instance of one of accused. Prima facie, it is proved that the petitioners were the members of the gang. Therefore, the petitioners are not entitled for bail. Moreover, the said offences are serious in nature and it is not proper to enlarge them on bail keeping in view the safety and interest of the society at large. Making such submissions, learned High Court Government Pleader prays to reject the bail petition.

8. Having heard learned counsel for the respective parties and also perused the materials available on record, it is relevant to refer the averments of the complaint that when the complainant went to the terrace to dry the clothes, there were three persons entered in her house and when she came down from the terrace and entered the house, one of the persons

gagged her mouth, another person threatened her by showing a knife and another person closed her mouth with insulation tape and confined her in a bathroom and thereafter, two persons have robbed the house and went away by locking the door. However, during investigation, the jurisdictional police have arrested one of the accused and based on his statement, they implicated other accused and conducted investigation in respect of aforesaid offences. Though it is stated in the complaint that the golden ornaments said to have been robbed by the accused and same was recovered at the instance of accused No.5, it is a matter of trial and moreover, it is borne from the record that there are no criminal antecedents against the petitioners.

9. It is further noticed that the petitioners even though stated to be the members of the team which committed theft in the house of the complainant, as per the submissions of the learned counsel for petitioners, no identification parade had taken place even though the petitioners were in judicial custody. Therefore, the petitioners may be ordered to be enlarged on bail by imposing suitable conditions.

10. Hence, I proceed to pass the following:-

ORDER

The Criminal Petition is *allowed.*

The petitioners are ordered to be enlarged on bail in Crime No.91/2024 of Kaggalipura police station, pending on the file of II Additional CJM Court, Bangalore Rural District, Bangalore, in C.C.No.4349/2024 on executing personal bond in a sum of Rs.1,00,000/- (Rupees One lakh only) each with one surety each for the likesum to the satisfaction of the Trial Court, subject to the following conditions:-

I. The petitioners shall not threaten or tamper the prosecution witnesses nor hamper the proceedings of the Court.

II. The petitioners shall not leave the jurisdiction of the Court till disposal of the case.

III. The petitioners shall appear before the Trial Court on all dates of hearing without fail.

In case, if the petitioners violate any of the bail conditions as stated above, the prosecution will be at liberty to seek for cancellation of bail.

Sd/-
(S RACHAIAH)
JUDGE

Bss List No.: 1 Sl No.: 2