NC: 2025:KHC:2238
CRL.P No. 12849 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 12849 OF 2024 (439(Cr.PC) / 483(BNSS))

BETWEEN:

MR SHAKIR HUSSAIN @ ZAKIR HUSSAIN
S/O LATE ABOOBAKER,
AGED ABOUT 56 YEARS,
R/AT. ERAVALLAPPIL HOUSE,
KOORKANCHERI VILLAGE, VADUKKAR POST,
TRISHUR, KERALA -680007.

...PETITIONER

(BY SRI VIKRAM RAJ A., ADVOCATE)

AND:

STATE OF KARNATAKA
THROUGH MANGALURU RURAL POLICE STATION,
DAKSHINA KANNADA DISTRICT.
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING,
BENGALURU-560001.

...RESPONDENT

(BY SRI M.R. PATIL, HCGP)

Digitally signed by SHILPA R TENIHALLI
Location: HIGH COURT OF KARNATAKA

THIS CRL.P IS FILED U/S 439 CR.PC (FILED U/S 483 BNSS) PRAYING TO RELEASE THE PETITIONER ON REGULAR BAIL CONDITIONALLY PENDING TRIAL IN C.C.NO.2426/2024 FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 120B, 457, 342, 323, 324, 307, 395, 397, 506, 201 R/W SEC. 149 OF INDIAN PENAL CODE, PENDING ON THE FILE OF THE HONBLE III JMFC COURT, MANGALURU, WHICH IS REGISTERED IN PURSUANCE OF CRIME NO.52/2024 OF MANGALURU RURAL POLICE STATION BY THE RESPONDENT POLICE.

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. Accused No.5 in Crime No.52/2024 registered by Mangalore Rural Police Station, Mangaluru City, for the offences punishable under Sections 120B, 457, 352, 323, 324, 307, 395, 397, 506, 201 read with Section 149 of IPC, is before this Court under Section 439 of Cr.P.C. seeking regular bail.

2. Heard the learned counsel for the parties.

3. FIR in Crime No.52/2024 was registered by Mangalore Rural Police Station, Mangaluru City, initially for the offences punishable under Sections 395, 397, 506 and 149 of IPC against unknown persons based on the first information dated 22.06.2024 received from Padmanabha Kotyan, S/o late Lokayya Poojary. During the course of investigation, petitioner herein was arrested on 04.07.2024 and remanded to judicial custody. Investigation in the case is completed and charge sheet has been filed as against 18 accused persons and the petitioner herein is arraigned as accused No.5 in the charge sheet. Bail application filed by the petitioner before the

jurisdictional Sessions Court in Crl.Misc.No.899/2024 was rejected on 08.11.2024. Therefore, he is before this Court.

4. Learned counsel for the petitioner submits that accused Nos.4, 8, 10 and 11 have been granted regular bail by this Court. Petitioner has no other criminal antecedents. Investigation in the case is completed and charge sheet has been filed. His custody is no more required. Accordingly, he prays to allow the petition.

5. Per contra, learned High Court Government Pleader has opposed the petition. He submits that there is recovery in the present case from the petitioner and his presence at the spot of crime is found in the CCTV footage. Accused persons who have been granted regular bail by this Court were not present at the spot of crime. Petitioner hails from Kerala State and in the event, he is enlarged on bail, he is likely to flee away from justice. Accordingly, he prays to dismiss the petition.

6. A perusal of the charge sheet would go to show that accused No.2 was the driver the tipper lorry belonging to the first informant and he had conspired with his friend accused No.3 to commit robbery in the house of first informant. In

furtherance of such conspiracy, accused No.3 allegedly contacted accused No.4, who in turn contacted his friend accused No.8 from Kerala, who conspired with other accused persons and made arrangements for committing dacoity in the house of first informant. In furtherance of said conspiracy on 21.06.2024, accused Nos.5, 6, 7, 9, 11, 12 to 18 came in two vehicles bearing registration No.KL-08-BH-5212 and KL-45-J-5005 and amongst the aforesaid accused, accused Nos.5, 6, 7, 12, 13, 15, 16, 17 & 18 had entered into the compound wall of the first informant's house at about 08.00 p.m. on 21.06.2024 and after threatening the first informant and the inmates of the house had allegedly committed robbery of the valuables including gold and silver jewelry and also cash and other articles and had escaped from the spot.

7. Accused No.5 is the part of gang of 12 members which had come in two vehicles to commit the crime and also was a part of the gang of nine members, who had entered into the compound wall of first informant’s house to commit the crime. The material on record would go to show that there is recovery in the present case from the petitioner and learned HCGP has also submitted that his presence is found in the CCTV footage

of the house. Accused Nos.4, 8, 10 and 11, who have been granted regular bail by this Court were not part of the gang which had entered into the compound wall of house of first informant on 21.06.2024 and allegation against the said accused persons is about conspiracy. Gold and silver jewelry and other valuable articles of which robbery was committed in the present case have been recovered from accused No.13, who was part of gang of nine members who had entered into the compound wall of first informant's house on 21.06.2024. Merely for the reason that investigation in the case is completed and charge sheet has been filed, petitioner cannot be granted bail, more so when the charge sheet allegations *prima facie* show that the accused persons have committed heinous offence. Charge sheeted offences are punishable with life imprisonment. Under the circumstances, I am of the opinion that at this stage, prayer made by the petitioner for grant of regular bail cannot be entertained. Accordingly, petition is dismissed.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

DN/List No.: 19 Sl No.: 8/CT:PK