IN THE HIGH COURT OF KARNATAKA

AT BENGALURU

DATED THIS THE 30TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 105 OF 2025 (439(Cr.PC) / 483(BNSS))

BETWEEN:

IRSHAD PASHA @ ALI S/O NAWAB JAN,
AGED ABOUT 21 YEARS,
R/AT. NO.E-122, URDU SCHOOL ROAD,
HARINAGARA, ANJANAPURA,
BENGALURU-560062.

…PETITIONER

(BY SRI PREMA KUMAR G A., ADVOCATE)

AND:

STATE OF KARNATAKA
BY K. S. LAYOUT POLICE,
REPRESENTED BY SPP,
HIGH COURT COMPLEX,
BENGALURU-560001.

…RESPONDENT

(BY SRI K. RAHUL RAI, HCGP)

Digitally signed by LUCYGRACE
Location: HIGH COURT OF KARNATAKA

THIS CRL.P IS FILED U/S 439 CR.PC (FILED U/S 483 BNSS) PRAYING TO ENLARGE THEM ON REGULAR BAIL IN CR.NO.149/2024 (S.C.NO.1047/2024) OF KUMARASWAMY LAYOUT POLICE PENDING BEFORE THE HONBLE LVI ADDL.CITY CIVIL AND SESSIONS JUDGE AT BENGALURU (CCH-57) AT BENGALURU FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 307,427 R/W 34 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 No.1 in S.C.No.1047/2024, pending before the Court of LVI Additional City Civil and Sessions Judge, Bengaluru, arising out of Crime No.149/2024, registered by Kumaraswamy Police Station, Bengaluru City for the offences punishable under Sections 307, 427 read with 34 of IPC, is before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita (for short 'BNSS'), 2023, seeking regular bail.

2. Heard the learned counsel for the parties.

3. FIR in Crime No.149/2024 was registered by Kumaraswamy Police Station, Bengaluru City for the aforesaid offences against Ali and five unknown persons on the basis of the first information dated 27.05.2024 received from injured Prashanth. During the course of investigation, the petitioner herein was arrested on 29.05.2024 and subsequently remanded to judicial custody. Investigation of the case is completed and

charge sheet as been filed against five accused persons. The petitioner is arrayed as accused No.1 in the charge sheet. The bail application filed by the petitioner before the jurisdictional Sessions Court in Crl.Misc.No.8314/2024 was rejected on 17.09.2024. Therefore, he is before this Court.

4. Learned counsel for the petitioner submits that accused Nos.2 to 6 have been granted regular bail by this Court. The petitioner has no other criminal antecedents and he is in custody from 28.05.2024 onwards. The allegations as against all the accused persons are similar. Accordingly, he prays to allow the petition.

5. Per contra, learned High Court Government Pleader for the respondent has opposed the petition. He submits that the injured has suffered three grievous injuries as a result of assault made by the accused persons. In the event, the petitioner is enlarged on bail, the chances of he tampering the prosecution witnesses

cannot be ruled out. Accordingly, he prays to dismiss the petition.

6. FIR was initially registered against Ali and five unknown persons on the basis of the first information received from the first informant Prashanth, who is the injured in the present case. During the course of investigation, petitioner herein was arrested on 28.05.2024. Investigation in the case is completed and charge sheet has been filed. As per the charge sheet allegations, there was a fight between the accused persons and the injured and therefore, there was ill-will between them. It is in this background, on 26.05.2019, the accused persons named in the charge sheet had assaulted Prashanth. Perusal of the charge sheet material would go to show that there are allegations against all the accused persons about assaulting the injured Prashant. The petitioner, who has no criminal antecedents, is in custody from 28.05.2024. Accused No.5 has been granted regular bail by this Court in Criminal Petition No.6871/2024,

accused Nos.3 and 4 have been granted regular bail in Criminal PetitionNo.9284/2024, accused No.6 has been granted regular bail in Criminal Petition No.9293/2024 and accused No.2 has been granted regular bail by this Court in Criminal Petition No.12375/2024.

7. Under such circumstances, on the ground of parity, petitioner's prayer for grant of regular bail is required to be answered affirmatively. Accordingly, following order is passed:

ORDER

The petition is allowed.

The petitioner/accused No.1 is directed to be enlarged on bail in Crime No.149/2024 of Kumarswamy Layout Police Station, Bengaluru City, registered for the offences punishable under Sections 307, 427 read with Section 34 of IPC, pending before the Court of LVI Additional City Civil And Sessions Judge at Bengaluru in S.C.No.1047/2024, subject to the following conditions:

a) Petitioner shall execute personal bond for a sum of Rs.1,00,000/- with two sureties for the likesum, to the satisfaction of the jurisdictional Court;

b) Petitioner shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts his appearance for valid reasons;

c) Petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) Petitioner shall not involve in similar offences in future;

e) Petitioner shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against him is disposed off.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

AMM/SRT
List No.: 19 Sl No.: 10
CT:PK