IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 17TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.RACHAIAH

CRIMINAL PETITION NO. 102582 OF 2024

BETWEEN:

BASAPPA @ BASAVANNEPPA
S/O GIRIYAPPA BUDDANNANAVAR
AGE 65 YEARS, OCC: AGRICULTURE
RESIDENT OF BILLAHALLI VILLAGE
TQ: RANEBENNUR, DIST: HAVERI
PIN CODE 581 208.

...PETITIONER

(BY SRI. V M BANAKAR, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH HALAGERI POLICE STATION
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT KARNATAKA , DHARWAD
BENCH AT DHARWAD – 580 011.

...RESPONDENT

(BY SMT. GIRIJA HIREMATH, HCGP)

Digitally signed by SREEDHARAN BANGALORE SUSHMA LAKSHMI
Location: HIGH COURT OF KARNATAKA

THIS CRIMINAL PETITION IS FILED U/SEC. 439 OF CR.P.C. SEEKING TO ENLARGE THE PETITIONER/ACCUSED NO. 3 ON REGULAR BAIL IN CONNECTION WITH HALAGERI PS CRIME NO.100/2024, IN CC NO. 2097/2024, ON THE FILE OF I ADDL. CIVIL JUDGE (SR. DN) AND JMFC, RANEBENNUR, DIST: HAVERI REGISTERED FOR THE OFFENCES PUNISHABLE U/S 302, 324, 307, 504, 506 R/W 34 OF IPC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE S.RACHAIAH

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE S.RACHAIAH)

1. Heard Shri V.M.Banakar, learned counsel for the petitioner and Smt. Girija Hiremath, learned High Court Government Pleader for the respondent - State.

2. The petitioner, who is arraigned as accused No.3 in Crime No.100/2024 of the respondent – Police, is before this Court seeking regular bail, for the offences punishable under Sections 302, 307, 324, 504, 506 r/w 34 of Indian Penal Code (for short "IPC") pending before the I Additional Civil Judge (Sr. Dn.) and JMFC, Ranebennur, Haveri District in C.C.No.2097/2024.

Brief facts of the case are as under:

3. It is the case of the complainant that the complainant is the cousin of the deceased. It is the fact of the complaint that the daughter of his cousin namely Deepa married accused No.1 against to the will of her parents. Accused No.1 was teasing the deceased and his family members wherever he found them. As such, there was a strained

relationship between the accused and the family of the deceased.

4. On 25.04.2024 around 5.30 p.m., when the complainant was standing near the house of his elder brother / deceased, suddenly, all the accused persons, in furtherance of their common intention, came there by holding deadly weapons like iron rod and cart pegs, abused the deceased and assaulted the deceased and his wife indiscriminately and caused injuries. The overt acts of each accused have been explained in the complaint. As per the said overt acts, the accused No.3, who is the petitioner herein, had also assaulted the deceased and his wife with a cart peg and caused injuries.

5. Upon the complaint of the complainant, a case came to be registered in Crime No.100/2024 before the respondent - Police against all the accused. The deceased died during the pendency of investigation and a charge sheet came to be submitted by the respondent - police after conducting the investigation.

6. It is the submission of the learned counsel for the petitioner that, the petitioner is innocent of the alleged offences and he has been falsely implicated in this case.

7. It is further submitted that the petitioner is aged about 65 years and is the father of accused Nos.1 and 2. The entire medical records along with the postmortem report would indicate that the injuries caused to the deceased were result of the assault made by accused No.1/son-in-law of the deceased. Moreover, the Investigating Officer has not collected the clothes of accused No.3 for the purpose of sending those clothes for FSL or serology test.

8. It is further submitted that the medical records are contrary to the statements of eyewitnesses. Such being the fact, the false implication of the petitioner cannot be ruled out. Therefore, the petitioner seeking bail on the ground of age as well as his ailments. It is further submitted that he will abide the conditions imposed by this Court in the event of his release on bail. Making such submissions, learned counsel for the petitioner prays to allow the petition.

9. *Per contra*, learned High Court Government Pleader (for short 'HCGP') for the respondent - State vehemently opposed the bail petition and she further submitted that *prima facie* case is made out against accused No.3 who has assaulted the deceased with cart peg on different parts of the body. The postmortem report would indicate as many as 13 injuries found on the body of the deceased. The severity and gravity of the offence has to be looked into while granting bail. Further, she submitted that if the petitioner is enlarged on bail, there may be chances of tampering the prosecution witnesses. Therefore, the application may be rejected. Making such submission, the learned HCGP prays to dismiss the petition.

10. Having considered the rival submissions made by the learned counsel for the respective parties, on perusal of the averments of the charge sheet, it would indicate that there was a quarrel between the family members of the deceased and the accused. Accused No.1 had married accused No.4 who is the daughter of the deceased and CW.7. After marriage, the accused No.1 stated to have

teased the deceased whenever they met. The facts stood thus, on 25.04.2024 around 5.30 p.m., it is stated in the complaint and it is clear from the averments of the charge sheet that all the accused persons, in furtherance of the common intention, assaulted the deceased with cart pegs and iron rod and caused injuries to him. Though he was shifted to the hospital for treatment, he was there in hospital for 17 days. However, it is the fact that he died due to said injuries.

11. It is also seen from the record that the deceased was shifted to other hospital against the medical advice and he survived for 17 days after the incident. Though accused No.3 stated to have been present at the scene of occurrence, the Investigating Officer has not recovered the clothes of accused No.3 for the purpose of sending it for serology or FSL. The investigation is completed and charge sheet is filed.

12. Having considered the submissions of learned counsel for petitioner that the petitioner is aged about 65 years and

also suffering from old age ailments, he may be enlarged on bail with suitable conditions.

13. Hence, I proceed to pass the following:

ORDER

i) The Criminal Petition is *allowed.*

ii) The petitioner / accused No.3 is ordered to be enlarged on bail in Crime No.100/2024 of the respondent – Police, pending on the file of I Additional Civil Judge (Sr. Dn.) and JMFC, Ranebennur, Dist: Haveri in C.C.No.2097/2024, on executing a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with one surety for the likesum to the satisfaction of the Trial Court, subject to the following conditions:

a) The petitioner shall not threaten nor tamper the prosecution witnesses and shall co-operate with the investigation.

b) The petitioner shall appear before the Trial Court on all dates of hearing without fail.

In case, if the petitioner violates 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.: 19 Sl No.: 3