IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 9TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

CRIMINAL APPEAL NO. 200015 OF 2025 (U/S 14 (A)(2))

BETWEEN:

1. VISHWANATH @KUMAR @KUMMYA
   S/O SHOMRAYA MANJULKAR,
   AGE:22 YEARS, OCC: MASON,
   R/O. MANDEWAL VILLAGE, TQ. JEWARGI,
   DIST. KALABURAGI-585310.

2. PRAJWAL @PUTYA @PAJYA
   S/O PAYAPPA BAJANTRI,
   AGE:19 YEARS, OCC: COOLIE WORK,
   R/O. MANDEWAL VILLAGE, TQ. JEWARGI,
   DIST. KALABURAGI-585310

...APPELLANTS

(BY SRI GURURAJ V. HASILKAR, ADVOCATE)

Digitally signed by RENUKA
Location: HIGH COURT OF KARNATAKA

AND:

1. THE STATE OF KARNATAKA,
   THROUGH DEVAL GANAGAPUR
   POLICE STATION, TQ.AFZALPUR,
   DIST.KALABURAGI,(REPRESENTING BY,
   LEARNED ADDL. STATE PUBLIC PROSECUTOR,
   HIGH COURT OF KARNATAKA,
   AT KALABURAGI–585107).

2. MALLANNA S/O BASANNA CHAKRA,
   AGE:50 YEARS, OCC: LABOUR,
   R/O. SAGANOOR, TQ.AFZALPUR,
   DIST. KALABURAGI-585301.

...RESPONDENTS

(BY SRI SIDDALING P. PATIL, ADDL. SPP FOR R1;
SRI ASHOK B. MULAGE, ADVOCATE FOR R2)

THIS CRL.A IS FILED U/SEC. 14A(2) OF SC/ST (PA) ACT, PRAYING TO, ALLOW THE APPEAL AND SET ASIDE THE ORDER DATED 21-08-2024 IN SPL.CASE (SC/ST) NO.36/2024 REJECTING THE BAIL PETITION FILED BY THE APPELLANTS U/SEC. 439 OF CR.P.C (U/SEC. 483 OF BNSS,2023) AND BE PLEASED TO ENLARGE THE APPELLANTS ON BAIL IN CRIME No.13/2024 OF DEVAL GANAGAPUR POLICE STATION, TQ AFZALPUR, DIST KALABURAGI, PENDING ON THE FILE OF II-ADDL. SESSIONS JUDGE AT KALABURAGI, FOR THE OFFENCES PUNISHABLE U/SEC. 120(B), 109, 302, 212 R/W SEC. 149 OF IPC AND SEC. 3(1)(r),3(2)(v) OF SC/ST (P/A) ACT, 1989 AND SEC. 25 (IA), 27(3) OF INDIAN ARMS ACT.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 04.04.2025, AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, THE COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S RACHAIAH

CAV JUDGMENT

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

The appellants who are arrayed as accused Nos.2 and 3 in Special Case (SC/ST) No.36/2024 are before this Court seeking to set aside the order dated 21.08.2024 passed by II-Additional Sessions Judge and Special Judge, Kalaburagi and to enlarge the appellants on regular bail in Crime No.13/2024 registered by Deval Ganagapur Police Station, for the offences punishable under Sections

120(B), 109, 302, 212, r/w Section 149 of IPC and Sections 3(1)(r), 3(2)(v) of the SC/ST (POA) Act, 1989 and Sections 25(1A) and 27(3) of Indian Arms Act.

2. Brief facts of the case are:

The complainant-Mallanna stated in his complaint that his younger brother Girish Babu was nominated as a Member of BSNL advisory committee. On 29.02.2024 at about 10.30 a.m., his younger brother along with Prakash S/o Ambaraya Hosmani gone to Bijapur to attend the engagement ceremony. On the same day, around about 12'o clock in the mid night, he received a phone call from Prakash S/o Ambaraya Hosmani stating that his brother had been murdered and the body was lying in the agricultural land of Sachin S/o Sharanappa Kirasavalagi.

On receiving the said information, the complainant went to the place. After going to the said place, the complainant enquired about the incident with the said Prakash. He was told that when the deceased-Girish along with Prakash was standing in front of grocery shop of

Kashinath S/o Galappa Chakra, his friends came to the shop and expressed their happiness in respect of deceased-Girish Babu for having nominated as a Member to BSNL advisory committee. Honored his younger brother and asked him to join the party. When they were consuming liquor in the land of Sachin, Prakash was asked to bring the snacks and therefore, he went by taking the car to bring the snacks. When he returned with snacks to the said land, he saw that three persons were assaulting the younger brother of the complainant with stones and committed his murder. The complainant, after receiving the information, lodged a complaint against Sachin and others. The jurisdictional Police have registered the case, conducted investigation and submitted charge sheet. Appellants are arrayed as accused Nos.2 and 3 and they are in judicial custody.

3. Heard Sri.Gururaj V.Hasilkar, learned counsel for the appellants and Sri.Siddaling P.Patil, learned Additional State Public Prosecutor for the respondents.

4. It is the submission of the learned counsel for the appellants that the appellants are innocent of the alleged offences and they have not committed any offences as stated in the complaint. In fact, Prakash, who is stated to have accompanied the deceased, being a relative of the deceased, has made false allegations against the appellants. Therefore, the statement of the said witness cannot be considered as a conclusive proof of the incident.

5. It is further submitted that as per the charge sheet there are number of witnesses who are required to be examined and the trial may take its own time. Therefore, it is appropriate to grant them bail. Making such submissions, he prays to allow the appeal.

6. *Per contra*, the learned Additional State Public Prosecutor vehemently submitted that the trial has commenced, two witnesses have been examined. One of the witnesses namely, PW.2 has supported the case of the prosecution. At this stage, it is not appropriate to grant

bail to the appellants. Making such submissions, he prays to reject the appeal.

7. Having heard the learned counsel for the respective parties and also perused the averments of the charge sheet and the deposition of PWs.1 and 2 along with some documents made available by the learned counsel for the appellants. It appears from the records that the trial has commenced. Therefore, it is not appropriate at this stage to grant bail to the appellants. It is needless to say that once the trial is commenced and witnesses have supported, it is not appropriate to grant the bail.

8. Hence, I proceed to pass the following:

ORDER

The appeal is ***dismissed***.

Sd/-
(S RACHAIAH)
JUDGE

NB
List No.: 1 Sl No.: 76
CT:PK