IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 18TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

CRIMINAL PETITION NO. 200430 OF 2025

(439(Cr.PC)/483(BNSS))

BETWEEN:

AJAY S/O BALU CHAVAN,
AGE:25 YEARS, OCC: COOLIE,
R/O. BARAKUTRI TANDA, VIJAYAPURA,
DIST. VIJAYAPURA-586101.

...PETITIONER

(BY SRI SHIVANAND V. PATTANASHETTI, ADVOCATE)

AND:

THE STATE OF KARNATAKA THROUGH,
JALANAGAR POLICE STATION,
DIST. VIJAYAPURA-586101,
REPRESENTED BY ADDL. SPP,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH.

...RESPONDENT

(BY SRI JAMADAR SHAHABUDDIN, HCGP)

Digitally signed by RENUKA
Location: HIGH COURT OF KARNATAKA

THIS CRL.P. IS FILED U/S. 483 OF BNSS,2023 PRAYING TO GRANT THE REGULAR BAIL TO THE PETITIONER/ ACCUSED NO.5 ON BAIL IN C.C.NO.16/2025 (JALANAGAR PS FIR (CRIME) NO.94/2024) PENDING ON THE FILE OF III ADDL. CIVIL JUDGE (SR.DN) JMFC COURT VIJAYAPURA DISTRICT VIJAYAPURA, FOR THE OFFENCES PUNISHABLE U/SEC. 61(2)(a), 140(1), 54, 103(1), 238, R/W 190 OF BNS-2023.

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

CORAM: HON'BLE MR. JUSTICE S RACHAIAH

ORAL ORDER

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

1. The petitioner who is arraigned as accused No.5 is before this Court seeking regular bail in Crime No.94/2024 of respondent - Police Station for the offences punishable under Sections 61(2)(a), 140(1), 54, 103(1), 238 r/w 190 of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS) in C.C No.16/2025 pending on the file of III Additional Civil Judge (Sr.Dn), JMFC Court, Vijayapura.

Brief facts of the case:

2. It is the case of the prosecution that on 04.10.2024 at about 10.30 a.m., accused Nos.4 and 10 stated to have hatched conspiracy to commit murder of the deceased Mahesh in connection with the civil dispute pending in the Court between the family of the deceased and accused Nos.4 and 10.

3. It is further stated that accused Nos.4 and 10 said to have gave suphari of Rs.3,00,000/- to accused No.5 for the purpose of abducting and committing murder. The accused No.5 with the help of other accused stated to have committed the murder of the deceased and thereafter in order to screening the evidence, accused Nos.5 to 11 thrown the dead body of the deceased into Krishna river along with his mobile phone. Based on the complaint, the respondent police have registered a case against the petitioner and others. After conducting the investigation, submitted the charge sheet.

4. Heard Sri.Shivanand V.Pattanshetti, learned counsel for the petitioner and Sri.Jamadar Shahabuddin, learned High Court Government Pleader for the respondent – State.

5. It is the submission of the learned counsel for the petitioner that the name of the petitioner was not found in FIR, however, he is arraigned as accused No.5 in the charge sheet on the basis of the voluntary statement of the co-accused, which is not admissible in law.

6. It is further submitted that the entire case is based on the circumstantial evidence and there is no strong circumstances to indicate that accused No.5 committed the murder of the deceased. The averments of the charge sheet is a concocted and baseless story summarized to indicate that as if the petitioner has committed the murder of the deceased. However, the fact remains that, the entire story has been narrated by the co-accused.

7. It is further submitted that the petitioner was arrested on 07.10.2024 and he is the permanent resident of the address stated in the charge sheet and he will abide by the conditions imposed by this Court in the event of his release on bail. Making such submissions, the learned counsel for the petitioner prays to allow the petition.

8. Per contra, the learned High Court Government Pleader for the respondent – State vehemently opposed the said submissions and he further submitted that, the petitioner being accused No.5 took the suphari to commit the murder of the deceased, who is none other than the relative of the accused Nos.4 and 10.

9. It is further that accused Nos.4 and 10 stated to have paid the amount of Rs.3,00,000/- and the said amount has been distributed amongst the petitioner and others and the same has been collected by the investigating officer. Therefore, it is not appropriate to grant him bail. Making such submissions, he prays to dismiss the petition.

10. Having heard the learned counsel for the respective parties and also perused the averments of the charge sheet, it appears from the record that in the complaint and in FIR, the name of this petitioner was not found. Thereafter, in the charge sheet, he has been arraigned as accused No.5. This Court vide its order dated 19.02.2025 in Criminal Petition No.200169/2025 granted bail in favour of accused Nos.4 and 10, who are said to be the instrumental to commit the murder of the deceased.

11. Having considered the bail granted by this Court in favour of accused Nos.4 and 10, I am of the considered opinion that the parity has to be extended in favour of the petitioner.

12. Hence, I proceed to pass the following:

ORDER

The petition is allowed.

The petitioner/accused No.5 is directed to be enlarged on bail in Crime No.94/2024 of Jalanagar Police Station, Vijayapura District, registered for the offences punishable under Sections 61(2)(a), 140(1), 54, 103(1), 238 read with Section 190 of Bharatiya Nyaya Sanhita, 2023 in C.C No.16/2025 pending on the file of learned III Additional Civil Judge (Sr.Dn.) and JMFC Court, Vijayapura, subject to the following conditions:

a) The petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One lakh only) with two sureties, for the likesum, to the satisfaction of the jurisdictional Court;

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

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

d) The petitioner shall not involve in similar offences in future;

e) The 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 RACHAIAH)
JUDGE

UN
List No.: 1 Sl No.: 21
CT:PK