IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 6TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

CRIMINAL PETITION NO.201308 OF 2024

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

BETWEEN:

NAVEEN S/O BASAVARAJ SIRASAGIKAR,
AGE: 22 YEARS, OCC: CAR DRIVER,
R/O. NEAR COMMUNITY HALL,
ASHOK NAGAR, KALABURAGI-585103.

...PETITIONER

(BY SRI RAJESH DODDAMANI, ADVOCATE)

AND:

THE STATE OF KARNATAKA
ASHOK NAGAR POLICE STATION, KALABURAGI,
NOW REPRESENTED BY
THE ADDITIONAL STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
KALABURAGI BENCH - 585105.

...RESPONDENT

(BY SRI VEERANAGOUDA MALIPATIL, HCGP)

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

THIS CRL.P. IS FILED U/S. 439 OF CR.P.C (OLD) U/SEC 483 OF BNSS, PRAYING TO, ALLOW THIS PETITION AND RELEASE THE PETITIONER/ACCUSED NO.1 AS PER CHARGE SHEET ON BAIL IN CONNECTION WITH CRIME NO.55/2024 OF

ASHOK NAGAR POLICE STATION KALABURAGI REGISTERED FOR THE OFFENCES PUNISHABLE U/SEC 341, 302 R/W 34 AFTER INVESTIGATION CHARGE SHEET IS FILED AND THE SAME IS NOW PENDING ON THE FILE OF THE HON'BLE V ADDITIONAL CJ (JD) AND JMFC KALABURAGI IN C.C NO.9399/2024.

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

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY)

Accused No.1 in Crime No.55/2024 registered by Ashoknagar police station, Kalaburagi City for the offences punishable under Sections 341, 302 read with Section 34 of IPC is before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking regular bail.

2. Heard the learned counsel for parties.

3. FIR in Crime No.55/2024 was registered at Ashoknagar police station, Kalaburagi City against

unknown persons initially for the offence punishable under Section 302 of IPC on the basis of the first information dated 15.04.2024 received from Sunitha Gindi, mother of the deceased Akash. During the course of investigation, petitioner herein was arrested on 16.04.2024. Investigation of the case is competed and charge sheet has been filed against three persons. Petitioner is arrayed as accused No.1 in the charge sheet. Bail application filed by the petitioner before the jurisdictional Sessions Court in Crl.Misc.No.1422/2024 was rejected on 11.09.2024. Therefore, petitioner is before this Court.

4. Learned counsel for the petitioner having reiterated the grounds urged in the petition submitted that petitioner is youngster having no criminal antecedents. There is inordinate delay in recording the statement of the alleged eyewitnesses i.e., CWs.15 to 18. Therefore, he prays to allow the petition.

5. Per contra, learned High Court Government Pleader has opposed the bail petition.

6. FIR in the present case was initially registered against unknown persons for the offence punishable under Section 302 of IPC on the basis of the first information submitted by mother of the deceased, who was informed by her son Vikas that some strangers had assaulted Akash and had committed his murder. During the course of investigation, petitioner herein was arrested on 16.04.2024. Investigation of the case is completed and charge sheet was filed. As per the charge sheet allegations, on 14.04.2024 during the course of procession of the statue of Dr.Babasaheb Ambedkar, at about 7.30 p.m., petitioner and Akash had fought against each other and subsequently petitioner had left the spot along with accused Nos.2 and 3. Thereafter, at about 9.15 p.m. on the said date, accused Nos.1 to 3 had returned and accused No.1 had allegedly stabbed Akash with a knife while accused Nos.2 and 3 had caught hold of Akash. Accused Nos.1 to 3 ran away from the spot after seeing the police arriving to the spot of the crime. Thereafter CWs.16 and 17 allegedly had shifted Akash to a hospital,

wherein, he was declared as brought dead. CWs.15 to 18 are alleged eyewitnesses in the present case and they are all friends of deceased and accused persons. Statement of the alleged eyewitnesses is recorded on 23.04.2024, which is after a delay of nine days from the date of the incident. The eyewitnesses have stated that the police had arrived at the spot even before dead body was shifted to the hospital. Petitioner is aged about 22 years, having no criminal antecedents and is in custody for the last more than six months. Investigation of the case is completed and charge sheet has been filed. Accused Nos.2 and 3 have been already enlarged on bail by the jurisdictional Sessions Court and undisputedly, the case is yet to be committed to the Trial Court and therefore, the chances of trial being completed in the near soon is very remote.

7. Under such circumstances, I am of the view that petitioner's prayer is required to be considered affirmatively. Accordingly, I proceed to pass the following:

ORDER

The petition is allowed.

The petitioner is directed to be enlarged on bail in Crime No.55/2024 of Ashoknagar Police Station, Kalaburagi City, registered for the offences punishable under Sections 341, 302 read with Section 34 of IPC, pending on the file of learned V Additional Civil Judge (Jr.Dn.) and JMFC Kalaburagi, 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

SRT
List No.: 1 Sl No.: 7
CT:PK