HC-KAR

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 16TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

CRIMINAL PETITION NO.104888 OF 2025

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

BETWEEN:

1. MR. UMESH S/O. SHIVAPPA
MADAR @ JANGAWAD,
AGE. 41 YEARS, OCC. AGRICULTURE,
R/O. SULIKERI VILLAGE, TQ. BADAMI,
DIST. BAGALKOTE-587101.

2. MR. VITTAL S/O. SHIVAPPA
MADAR @ JANGAWAD,
AGE. 41 YEARS, OCC. AGRICULTURE,
R/O. SULIKERI VILLAGE, TQ. BADAMI,
DIST. BAGALKOTE-587101.

...PETITIONERS

(BY SRI. ROHIT NAGESH LATUR, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
R/BY KERUR P.S.,
TQ/DIST. BAGALKOTE-587206,
R/BY HCGP, HIGH COURT OF KARNATAKA,
DHARWAD BENCH, DHARWAD-587101.

...RESPONDENT

(BY SRI. ABHISHEKH MALIPATIL, HCGP)

Digitally signed by CHANDRASHEKAR LAXMAN KATTIMANI
Location: HIGH COURT OF KARNATAKA DHARWAD BENCH DHARWAD

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. (483 OF BNSS), PRAYING TO RELEASE THE PETITIONERS/ACCUSED NO.3 AND 6 ON REGULAR BAIL IN RELATION TO KERUR PS CR NO.125/2020 PENDING ON THE FILE BEFORE THE PRL. DISTRICT AND SESSIONS JUDGE, BAGALKOTE IN S C NO.28/2021 FOR THE ALLEGED OFFENCES PUNISHABLE UNDER SECTION 143, 147, 148, 341, 447, 302, 109 R/W 34 IPC AND ETC.,.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel for the petitioners and the learned High Court Government Pleader for the respondent.

2. This petition is filed seeking regular bail in Crime No.125/2020 registered before Kerur Police Station, which is now registered as S.C.No.28/2021 before the Sessions Court at Bagalkote, after the investigation. The offences alleged are Sections 143, 147, 148, 341, 447, 302, 109 read with Section 34 of Indian Penal Code, 1860.

3. There are 13 accused. Out of 13, accused No.4, 10 and 11 are on bail in terms of the order granted by this Court.

4. Learned counsel for the petitioners would submit that the petitioners are accused Nos.3 and 6 were arrested on 17.09.2020 and since then, they are in custody.

5. It is alleged that the trial has commenced. Out of three alleged eye witnesses, CWs6 and 12 have been examined and they have not supported the case of the prosecution. It is further alleged that, the trial has not progressed as the

proceeding against one of the accused, who is later impleaded, is stayed.

6. Learned counsel for the petitioners would submit, though there is no stay order for the trial against the present petitioners, yet the proceeding is not taken up since last one year.

7. Learned counsel for the petitioners would urge that, the petitioners are entitled to speedy trial and they have been in custody since last six years, the valuable right of the petitioners is curtailed. Elaborating his submission, the learned counsel for the petitioners would also urge that custodial interrogation is no longer required as the investigation is over and the charge sheet is filed.

8. In addition, the learned counsel for the petitioners would urge that, the petitioners have not been convicted for any offence earlier and there are no criminal antecedents against the petitioners. It is also urged that the petitioners would abide by all the terms and conditions to be imposed in the event of grant of bail. It is also urged that the petitioners would co-operate for the trial.

9. The learned High Court Government Pleader (HCGP) would oppose the petition and urge that accused Nos.3 and 6, according to the prosecution, used weapon with an intention to eliminate the deceased.

10. The learned HCGP would also urge that, the petitioners are contending that there was a civil dispute between the members of the present petitioners and the deceased and that would lead to the conclusion that the incident is a result of pre-planned murder and there is every likelihood that the petitioners may not co-operate with the trial in the event of release on bail.

11. Learned counsel for the petitioners by way of reply would rely on the judgment of the Apex Court in ***Javed Gulam Nabi Shaikh v. State of Maharashtra and another***[1] and also the judgment in ***Vaibhav Singh v. State of Uttar Padesh***[2].

[1] (2024) 9 SCC 813

[2] Special Leave to Appeal (Crl.) No.7416/2026

12. The Court has considered the contentions raised at the bar and perused the records.

13. Admittedly, the petitioners are in custody since 17.09.2020. Almost more than five years have elapsed since they are in custody. The investigation is over. The charge sheet is filed. Out of three eye witnesses, two have been examined and both of them have turned hostile and not supported the case of the prosecution.

14. The Court does not take a view that because of two alleged eye witnesses having been turned hostile, the petitioners are entitled to an order of acquittal. Nevertheless that can be taken as one of the mitigating factors to consider the present bail petition. No criminal antecedents have been pointed out against the petitioners to take a view that the petitioners are likely to abscond and tamper with the evidence and the prosecution witnesses.

15. The ratio in ***Javed Gulam Nabi Shaikh*** (supra) and ***Vaibhav Singh*** (supra) comes to the aid of the petitioners.

16. Under these circumstances, the Court is of the view that the conflicting claims of the petitioners and the respondent/State can be balanced by imposing suitable conditions. Hence, the following:

ORDER

Petition is ***allowed*** subject to following conditions:

i. Petitioner No.1/accused No.3 – Umesh s/o Shivappa Madar and petitioner No.2/accused No.6 – Vittal s/o Shivappa Madar as per the charge sheet shall be released on bail in Crime No.125/2020 on executing personal bond for a sum of ₹2,00,000/- each with two sureties for the like sum to the satisfaction of the Trial Court.

ii. Petitioners shall co-operate for the fair trial of the proceeding before the Sessions Court.

iii. Petitioners shall not tamper with the evidence and threaten the prosecution witnesses.

iv. Petitioners shall mark their attendance before the police station on first and third Saturday of every month between 09:30 a.m. to 07:00 p.m.

v. Petitioners shall not leave the jurisdiction of the police station without prior intimation to the jurisdictional police.

vi. Petitioners shall furnish current address, active mobile number, to the jurisdictional police and intimate any changes within 48 hours.

vii. Petitioners shall not commit any offences.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

CLK
CT: UMD
List No.: 1 Sl No.: 7