

Shri. Ram S/O. Sultan Soddi vs The State Of Karnataka on 18 February, 2025

Author: Ravi V.Hosmani

Bench: Ravi V.Hosmani

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NC: 2025:KHC-D:3214
CRL.P No. 100401 of 2025
C/W CRL.P No. 100326 of 2025
CRL.P No. 100345 of 2025

IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH

DATED THIS THE 18TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

CRIMINAL PETITION NO.100401 OF 2025
[439(CR.PC)/483(BNSS)]

C/W

CRIMINAL PETITION NO.100326 OF 2025
[439(CR.PC)/483(BNSS)]

CRIMINAL PETITION NO.100345 OF 2025
[439(CR.PC)/483(BNSS)]

IN CRL.P.NO.100401/2025:
BETWEEN:

SHRI LAXMAN
S/O. SULTAN SODDI, AGE: 43 YEARS,
OCC. NIL (SINCE PHYSICALLY HANDICAPPED)
R/O. SAMBARAGI-591232, TQ. ATHANI,
DIST. BELAGAVI.

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by

... PETITIONER

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(BY SRI PRASHANT S. KADADEVAR, ADVOCATE)

AND:

THE STATE OF KARNATAKA
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH AT DHARWAD,
THROUGH ATHANI P.S.

... RESPONDENT

(BY SMT.GIRIJA S. HIREMATH, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 483

OF BNSS ACT, 2023, SEEKING TO ALLOW THE PETITION AND
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NC: 2025:KHC-D:3214
CRL.P No. 100401 of 2025
C/W CRL.P No. 100326 of 2025
CRL.P No. 100345 of 2025

GRANT REGULAR BAIL TO THE PETITIONER, WHO IS ACCUSED
NO.2 IN ATHANI P.S. CRIME NO. 245/2024 FOR THE OFFENCE
PUNISHABLE UNDER SECTIONS 49, 189(2), 191(2), 191(3),
61(2), 103(1) AND 351(3) READ WITH 190 OF BNS ACT,
PENDING BEFORE THE PRL.CJ AND JMFC, ATHANI.

IN CRL.P.NO.100326/2025:

BETWEEN:

SRI ANNAPPA @ ANIL
S/O. GURAPPA @ GURULINGA KANTIKAR,
AGE: 29 YEARS, OCC. AGRICULTURE,
R/O. SAMBARAGI-590032,
TQ. ATHANI, DIST. BELAGAVI.

... PETITIONER

(BY SRI L.S. SULLAD, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH ATHANI P.S.,
REPRESENTED BY ADDITIONAL PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,

DHARWAD BENCH.

... RESPONDENT

(BY SMT.GIRIJA S. HIREMATH, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 483
OF BNSS, 2023(UNDER SECTION 439 OF CR.P.C), SEEKING TO
ENLARGE THE ABOVE SAID PETITIONER OR ACCUSED NO.5 ON
REGULAR BAIL IN C.C.NO. 2830 UNDER SECTIONS 49, 103(1),
189(2), 191(2), 191(3), 61(2), 351(3) READ WITH 190 OF BNS

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CRL.P No. 100401 of 2025

C/W CRL.P No. 100326 of 2025

CRL.P No. 100345 of 2025

ACT 2023 ON THE FILE OF PRINCIPLE CIVIL JUDGE AND JMFC
ATHANI, ARISING OUT OF CRIME NO.245/2024 ATHANI P.S.

IN CRL.P.NO.100345/2025:

BETWEEN:

SHRI RAM
S/O. SULTAN SODDI,
AGED ABOUT 45 YEARS, OCC. AGRICULTURE,
R/AT. SAMBARAGI, TQ. ATHANI,
DIST. BELAGAVI.

... PETITIONER

(BY SRI ASHOK R. KALYANASHETTY, ADVOCATE)

AND:

THE STATE OF KARNATAKA (ATHANI P.S.)
BY ITS STATE PUBLIC PROSECUTOR,
ADVOCATE GENERAL OFFICE,
HIGH COURT PREMISES,
DHARWAD-580001.

... RESPONDENT

(BY SMT.GIRIJA S. HIREMATH, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 483
OF BNSS 2023, SEEKING TO ENLARGE THE

PETITIONER/ACCUSED NO.3 ON BAIL ON SUCH TERMS AND

CONDITIONS AS DEEMED FIT IN ATHANI P.S. CR.NO.245/2024

FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 49, 189(2),

191(2), 191(3), 61(2), 103(1), 351(3) READ WITH 190 OF BNS,

PENDING ON THE FILE OF PRL. CIVIL JUDGE AND JMFC, ATHANI.

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CRL.P No. 100401 of 2025

C/W CRL.P No. 100326 of 2025

CRL.P No. 100345 of 2025

THESE PETITIONS, COMING ON FOR ORDERS, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI) While, Crl.P.no.100401/2025 is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short) for grant of regular bail in Crime no.245/2024 by Athani Police Station for offences punishable under Sections 49, 189 (2), 191 (2), 191 (3), 61 (2), 103 (1), 351 (3) read with Section 190 of Bharatiya Nyaya Sanhita, 2023 ('BNS' for short) by accused no.2, Crl.P.no.100345/2025 is by accused no.3 and Crl.P.no.100326/2025 is by accused no.5.

2. Prosecution case was that a complaint filed by Ganesh Manik Kadam (complainant) on 12.07.2024, stating that he was from Sambaragi village, residing in farm house along with his father - Manik Keshav Kadam, mother, sister and grandmother. That his grandfather Bandu Naru Kadam owned land measuring 5 Acres 30 guntas in R.S.no.73/1 of Sambaragi, and after death of his daughter - Yesabai in 1975, brother of Bandu Kadam - complainant's grandfather - Bapu Keshav Kadam, got it transferred to his name. In year 2003, Keshav NC: 2025:KHC-D:3214 and Manik Kadam together sold this land to Bharamanna and Laxman Soddi. But, Babasaheb Govind Shinde grandson of Yesabai filed suit claiming that Yesabai had bequeathed said land to him.

3. It was further stated that due to same, portion of sale consideration was withheld until closure of litigation. After dismissal of suit in year 2017, Manik demanded balance sale consideration from Bharmanna and Laxman, but it was not paid due to pendency of appeal. Meanwhile, Manik began supporting Babasaheb. And after writ petition filed by them before High Court at Dharwad was dismissed, Bharmanna, Laxman and their brother Rama Soddi held grudge against Manik and had also threaten him.

4. On 11.07.2024, Manik went to Sambaragi on motorcycle at 4:00 p.m. At 6:30 p.m., Deepak Deshpande called complainant to inform that Manik had met with accident nearby land of Deshpande and taken to hospital. When he went there, he saw Manik Kadam had sustained severe

bleeding injuries. As advised, he was initially taken to Civil Hospital, Miraj and thereafter to Sinergy Hospital. But, Manik Kadam (victim) died during treatment. After drawing of inquest NC: 2025:KHC-D:3214 panchanama by police and conduct of Post Mortem Examination body was handed over. It was brought back to village and buried.

5. After burial, one Shahaji Sitaram Mane informed complainant that on 11.07.2024 at 6:30 p.m., when he was nearby land of Deshpande while returning home on motorcycle, he saw victim riding his motorcycle on left side. Even when there was sufficient space on right side of road, a white goods vehicle came in high speed from behind and intentionally dashed against victim's motorcycle. Due to impact, Manik fell on bonnet of vehicle, while his motorcycle got stuck to vehicle bumper. Manik fell on one side a little further. After goods vehicle stopped and driver alighted, he recognized him to be Subash @ Hanmant Kantikar. Thereafter, he went away from spot on motorcycle with Anil Gurappa Kantekar. Thereafter, Anil Tanaji Landage etc. took victim to Deshpande hospital. Alleging that Subash had driven his vehicle in high speed and dashed it against motorcycle of victim with intention to kill him due to grudge held against victim for supporting Babasaheb in litigation, complaint sought taking action. It was stated, delay NC: 2025:KHC-D:3214 in filing complaint was due to delay in receipt of information about accident being intentional.

6. Based on complaint, Crime no.245/2024 by Athani Police Station for offences punishable under Sections 49, 189 (2), 191 (2), 191 (3), 61 (2), 103 (1), 351 (3) read with Section 190 of BNS. And after completion of investigation, charge-sheet was filed on 08.10.2024 for above offences against Bharamanna Sultan Soddi (accused no.1); Laxman Sultan Soddi (accused no.2); Ram Sultan Soddi (accused no.3); Subash @ Hanmant Shingade (accused no.4) and Annappa @ Anil Kantekar (accused no.5).

7. Sri Ashok R. Kalyanashetty, learned counsel for accused no.3 submitted that accused no.2 and 5 were arrested on 14.07.2024 while accused no.3 was arrested on 17.07.2024. It was submitted, as per complainant and prosecution, motive for murder was grudge in pursuance of sale transaction of year 2003. It was submitted, sale deed dated 26.09.2003 executed by Keshav Kadam, Manik Kadam (victim) and Maruthi Kadam was in favour of accused no.1 and 2 only. It was further submitted, as per recitals in sale deed, it was executed after receipt of entire sale consideration of Rs.98,000/-. Moreover, as NC: 2025:KHC-D:3214 on date of sale deed, there was no litigation with regard to said land. Therefore, there was no subsisting interest of complainant/victim's family insofar as demised land. It was submitted, O.S.no.116/2003 was filed by Babasaheb Shinde on 27.11.2003. Even in said suit, accused no.3 was not a party. Therefore, motive on basis of litigation alleged against accused no.3 suffered serious flaws, especially when accident had occurred 21 years of execution of sale deed.

8. It was further submitted, admission of victim in hospital was as a Medico Legal Case ('MLC') due to Road Traffic Accident ('RTA'). Even in history column of Post Mortem Report, 'RTA', was mentioned. Only after burial of body on next day, Shahaji Mane (CW-20) is alleged to have informed complainant about manner of occurrence of accident, giving room for afterthought, political rivalry etc. It was submitted, even in statement of Shahaji Mane recorded under Section 164 of Code of Criminal Procedure, 1973 ('CrPC' for short) on 12.07.2024, there was no mention of name of accused no.3. Said accused was arraigned after Laxman Tonne gave statement that he had heard

accused talking about their intention to murder victim. It was submitted, same would NC: 2025:KHC-D:3214 indicate that prosecution case against accused no.3 was purely circumstantial and at best only insofar as offence of criminal conspiracy.

9. When above factors were considered in light of fact that accused no.3 was not amongst purchasers of land, he had no criminal antecedents and was permanent resident of Sambaragi village and prosecution had already completed investigation and filed charge-sheet, he was entitled for bail.

10. Sri LS Sullad, learned counsel for accused no.5 submitted, at outset submitted, accused no.5 was brother-in-law of accused no.4. Except allegation that accused no.5 had after accident, picked accused no.4 from accident spot, on his motorcycle there was no material to directly implicate accused no.5. It was submitted, as per complaint, first informant Deepak Deshpande (CW-32/35) informed complainant about accident at 6:30 p.m. on 11.07.2024. In his statement recorded under Section 161 of CrPC on 15.07.2024, he stated, 2-3 days earlier, when he was standing near Lakshmi Temple on Kallotti road, victim was going towards his house on riding motorcycle and stopped on seeing him. While they were talking, he saw accused no.4 driving his pickup vehicle towards

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NC: 2025:KHC-D:3214 Kallotti and within 5 minutes going towards Sambaragi. After 5 minutes, he once again drove nearby. On noticing, CW-32/35 had cautioned victim. Thereafter on 11.07.2024, when he was in Sambaragi, someone informed about victim involved in accident. When he went there, he saw victim's motorcycle lying there with damages and pickup vehicle parked nearby. On asking, CW-20 told him how accused no.4 had caused accident with intention to kill victim and make it look like motor accident.

11. Attention was also drawn to statement that after victim was taken to Miraj for treatment, CW-20, CW-32/35 and CW-30 discussed, they found that accident was planned with specific intention to murder victim. It was submitted, failure of CW-20 to disclose manner of occurrence of accident to complainant or to police immediately after accident, failure of CW-32/35 to inform complainant or police about CW-20 being eye-witness to accident would raise serious doubts about prosecution case and substantiate that accused no.5 was falsely implicated on said grounds, sought for grant of bail.

12. Sri Prashant S. Kadadevar, learned counsel for accused no.2 submitted, entire prosecution case was purely

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NC: 2025:KHC-D:3214 circumstantial. It was submitted, accused no.2 physically handicapped person assessed at 70%. Therefore, possibility of he being involved in offences were remote. It was submitted, sale deed dated 26.09.2003 clearly mentioned that entire sale consideration was paid. Further, death of victim was in RTA. Only overt act against accused no.2 was his alleged participation in plan to murder victim. It was submitted, in column no.17 of charge-sheet, there was reference to agreement between Babasaheb and victim to share land equally in case of success in

appeal against decree of dismissal of suit. It was therefore submitted, complainant had intended to resolve civil dispute by falsely arraigning male members of purchasers family, by abusing death of victim in RTA. On above grounds, sought for allowing petition.

13. On other hand, Smt.Girija S. Hiremath, learned HCGP for respondent - State sought to oppose petition by referring to statement of objections filed. At outset, it was submitted, offences alleged against petitioners were heinous and punishable with death or imprisonment for life. It was submitted, CWs-20 and 25 to 28 were eye-witnesses. It was further submitted, during investigation, there was recovery of

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NC: 2025:KHC-D:3214 CC TV footage which clearly implicated accused no.4. Further, CWs-30 and 31 whose statement under Section 161 of CrPC was recorded on 15.07.2024 had clearly stated that on an evening during first week of said month, when they were going to shandy at Salagara. At 5:00 p.m., they went to take a look at capsicum cultivated in land of Soddi. When they went near shed belonging to accused no.5, they heard voices inside. Peeking through window, they saw accused no.2 to 5 planning to murder victim. Out of fear, CWs-30 and 31 went and informed victim to be careful. It was submitted, they had also identified said spot during investigation and a spot panchanama was drawn at shed. It was submitted, prosecution had recorded statements of 56 persons which was sufficient to establish all necessary circumstances to establish charges and therefore submitted none of petitioners herein were entitled for bail.

14. Heard learned counsel and perused available material on record.

15. From above, point that arises for consideration is:

"Whether petitioners are entitled for
regular bail on conditions?"

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16. From above, it is seen, these petitions are for regular bail by accused no.2, 3 and 5 in Crime no.245/2024 by Athani Police Station (supra).

17. Offences alleged are abetment under Section 49; criminal conspiracy under Section 61 (2); murder under Section 103 (1); being part of unlawful assembly under Section 189 (2); commission of offence in pursuit of common intention as part of unlawful assembly under Section 190; rioting and rioting with deadly weapons under Sections 191 (2) and (3) and threatening with death under Section 351 (3) of BNS, amongst whom, offences under Section 103 (1) is punishable with death or imprisonment for life thereby offences under Sections 49 and 190 attracting same maximum

punishment. Therefore, nature of these offences would be heinous.

18. As per prosecution case, column no.17 of charge- sheet overt acts motive for murder is litigation in pursuance of an earlier sale transaction and failure to meet obligation agreed thereunder and victim supporting opponents of accused in litigation involving sale transaction between complainant and accused families. However, said sale transaction is dated

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NC: 2025:KHC-D:3214 26.09.2003 and recitals of which indicate receipt of entire sale consideration without reference to any pending litigation.

19. Overt acts insofar as accused no.2 are, he was one of purchasers in sale deed dated 26.09.2003 and withholding part of sale consideration until closure of litigation about land. And as per statements of CWs-30 and 31 being part of unlawful assembly planning to murder victim and on 11.07.2024 passing information about location and movement of victim and instructing accused no.4 and 5 to murder victim by running him over with pickup vehicle. As per prosecution, movement of accused no.2 on his special vehicle (for disabled) near accident spot is found recorded in CC Camera of shop belonging to CW- 13 and private bank (CW-12). Thus, even as per prosecution case, accused no.2 was not directly involved in causing accident.

20. Likewise, insofar as accused no.3 are that he was purchaser no.3 in sale deed dated 26.09.2003, which would contradict with sale deed. And secondly, being part of unlawful assembly along with accused no.1, 2, 4 and 5, planning to murder victim, as per statement of CWs-30 and 31. But, accused no.3 is not alleged to have directly caused accident.

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21. In case of accused no.5, apart from being part of unlawful assembly with accused no.2 to 4 planning to murder victim only other overt act alleged is reaching accident spot on motorcycle and riding away with accused no.4, immediately after accident in which victim died.

22. Thus, prosecution case against accused no.2, 3 and 5 would appear to be purely circumstantial. Though, CWs-26 to 28 are stated to be eye-witnesses to accident, their statements do not directly implicate accused no.2, 3 and 5 for causing accident. As per prosecution, CC TV footage would merely show movement of accused no.2 and victim etc., around time of accident.

23. As rightly highlighted by learned counsel for petitioners, when CW-32/35 informed complainant about accident at 6:30 p.m. on 11.07.2024, complainant went to hospital and did not find anything suspicious. Thereafter, he proceeded to take victim to Miraj for treatment. After death of victim during treatment on 12.07.2024, complainant brought back victim's body to Sambaragi for burial without entertaining any doubt and performed final rites.

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24. But as per prosecution version, CW-20 had witnessed accused no.4 intentionally causing accident and informed same to CW-32/35 on 11.07.2024, immediately after accident and thereafter CW-32/35 informed complainant. It is also version of prosecution that apart from CW-20, even CWs- 26 to 28 were eye-witnesses to accident, but none of them informed police or victim's family. Indeed, it would neither be feasible nor appropriate to come to any conclusion about accused committing offences at this stage. In light of above, when investigation is already completed and charge-sheet filed on 08.10.2024, while accused no.2, 3 and 5 were in custody, their presence for custodial interrogation does not appear to be necessary. As held by Hon'ble Supreme Court in case of Sanjay Chandra v. CBI, reported in (2012) 1 SCC 40 and reiterated in Deshraj @ Musa v. State of Rajasthan, reported in 2024 SCC OnLine SC 2709, purpose of bail is to secure appearance of accused at trial and it can be neither punitive nor preventative. It is held, deprivation of liberty must be considered a punishment and that punishment begins only after conviction and until then they would be deemed innocent. Therefore, point for consideration is answered in affirmative. Hence, following:

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NC: 2025:KHC-D:3214 ORDER Petitions are allowed, accused no.2, 3 and 5 are ordered to be released on bail in Crime no.245/2024 by Athani Police Station for offences punishable under Sections 49, 189 (2), 191 (2), 191 (3), 61 (2), 103 (1), 351 (3) read with Section 190 of BNS, subject to following conditions:

a) Accused no.2, 3 and 5 shall separately execute personal bonds in a sum of Rs.1,00,000/- with two sureties each for likesum to satisfaction of Court.

b) They shall not tamper with any of prosecution witnesses.

c) They shall forthwith inform change in residence to Investigating Officer.

d) They shall be attend trial regularly.

e) It is clarified that views expressed are prima facie for purposes of this order and shall not influence final outcome after trial.

SD/-

(RAVI V.HOSMANI) JUDGE GRD CT:PA