

# Syed Sadiq vs State By The Psi on 12 April, 2023

Author: V Srishananda

Bench: V Srishananda

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CRL.P No. 1039 of 2023  
C/W CRL.P No. 697 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF APRIL, 2023

BEFORE

THE HON'BLE MR JUSTICE V SRISHANANDA  
CRIMINAL PETITION NO. 1039 OF 2023  
C/W  
CRIMINAL PETITION NO. 697 OF 2023

CRIMINAL PETITION NO. 1039 OF 2023

BETWEEN:

SHAKIL AHAMMED,  
S/O. ANWAR BASHA SAB,  
AGED ABOUT 27 YEARS,  
R/O. OLD MASJID ROAD,  
ASHRAYA BADAVANE,  
SHIKARIPURA TOWN  
SHIVAMOGGA DISTRICT - 57427.

...PETITIONER

(BY SRI. CHAKRAVARTHY T. S., ADVOCATE)  
AND:

Digitally signed  
by  
DHARMALINGAM  
Location: HIGH

STATE OF KARNATAKA BY NYAMATHI

COURT OF  
KARNATAKA

POLICE STATION,

DAVANAGERE DISTRICT  
REPRESENTED BY STATE PUBLIC PROSEUCTOR  
HIGH COURT BUILDINGS,  
BENGALURU - 560 001.

...RESPONDENT

(BY SRI. VINAYAKA V. S, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.167/2022 OF NYAMATHI P.S., DAVANAGERE DISTRICT FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 395,342 OF IPC ON THE FILE OF THE ADDL. CIVIL JUDGE AND JMFC, HONNAHLI. AND ETC.

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CRL.P No. 1039 of 2023  
C/W CRL.P No. 697 of 2023

CRIMINAL PETITION NO. 697 OF 2023

BETWEEN:

1. SYED SADIQ  
S/O SYED ABDUL SAB  
AGED ABOUT 24 YEARS,  
R/AT 2ND CROSS,  
ASHRAYA BADAVANE,  
SHIKARIPURA TOWN.
2. VASEEM  
S/O ATHAULLA,  
AGED ABOUT 20 YEARS,  
R/AT ASHRAYA BADAVANE,  
SHIKARIPURA TOWN.

...PETITIONERS

(BY SRI. SANGAMESHA B., ADVOCATE)

AND:  
STATE BY THE PSI  
NYAMATHI POLICE  
HONNALI TALUK  
DAVANAGERE  
REPRESENTED BY THE STATE PUBLIC PROSECUTOR  
HIGH COURT OF KARNATAKA  
HIGH COURT BUILDINGS  
BENGALURU - 560 001.

...RESPONDENT

(BY SRI.VINAYAKA V.S., HCGP)

THIS CRIMINAL PETITION IS FILED U/S 439 CR.PC PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.167/2022 OF NYAMATHI P.S., DAVANAGERE DISTRICT FOR THE OFFENCE P/U/S 395, 342 OF IPC AND ETC.

THESE CRIMINAL PETITIONS, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

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CRL.P No. 1039 of 2023

ORDER

Heard Sri. Chakravarthy T.S., learned counsel for the petitioner in Crl.P.No.1039/2023, Sri. Sangamesha B., learned Counsel for the petitioner in Crl.P.No.697/2023 and Sri. Vinayaka V.S., learned High Court Government Pleader for the respondent-State. Perused the records.

2. Criminal Petition No.1039/2023 is filed under Section 439 of Cr.P.C. with the following prayer:

"WHEREFORE, the petitioner most respectfully prays that this Court may kindly be pleased to allow the petition and enlarge the petitioner/accused on bail in Cr.No.167/2022 in Nyamathi Police Station, Davanagere, on the file of Hon'ble Additional Civil Judge and JMFC., at Honnali for the offence punishable under Sections 395, 342 of IPC, on such terms and conditions as deemed fit in the interest of justice and equity."

3. Criminal Petition No.697/2023 is filed under Section 439 of Cr.P.C. with the following prayer:

"WHEREFORE, petitioners respectfully pray that this Hon'ble Court may be pleased to allow the petition, grant an order of regular bail, directing the Respondent to release the petitioners from the custody of Respondent arrested in Crime No.167/2022 at Nyamathi Police Station. In the Court of Principal District and Sessions Court at Davanagere in Crl.Misc.No.1435/2022 of in connection with the offence alleged under Sections 395, 342 of Indian Penal Code, in the interest of justice and equity."

4. The petitioners are accused Nos.1, 5 and 6 in these petitions.

5. The brief facts of the case are as under:

Upon a complaint lodged by one K.Jafar Sab Bankapura S/o Khadar Sab Bankapura, Nyamathi Police, Honnali Circle, Davanagere District registered a criminal case in Crime No.167/2022 on 03.11.2022, for the offence punishable under Sections 395, 342 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC' for short).

6. The gist of the complaint averments reveal that on 01.11.2022 at about 10.00 p.m., the complainant had loaded 40 quintals of raw Areca nut on to his vehicle, which was harvested in the Areca nut Garden in Kaginele village, belonging to one Jabeer Ahamed. While so returning, at about 00.50 hours on 02.11.2022, near Jayanagara village, few persons came on two motorcycles and intercepted the vehicle and putting the persons in the vehicle on fear by showing the deadly weapons and also physically assaulting, the said persons robbed 40 quintals of areca nut and also cash to the tune of Rs.1,75,000/- and ran away in the same vehicles.

7. Based on the complaint, the criminal case came to be registered against six unknown persons at the first instance.
8. Police have investigated the matter and arrested the petitioners and also remaining accused persons and recovered the areca nut and the cash, which were robbed in the incident. The petitioners are in custody on and from 17.12.2022. After thorough investigation, the chargesheet came to be filed by the Investigating Agency for the above said offences.
9. The attempt made by the present petitioners to obtain an order of grant of bail is turned down by the Principal District and Sessions Judge, Davanagere, in Crl.Misc.No.1435/2022 by order dated 05.01.2023. Thereafter, the petitioners are before this Court.
10. Sri. Chakravarthy T.S., and Sri. Sangamesha B., learned Counsels for the petitioners reiterating the grounds urged in the petitions vehemently contended that the petitioners are no way responsible for the alleged incident and out of the previous enmity, the petitioners have been falsely implicated in the case and having regard to the fact that the chargesheet is filed and already the robbed amount and the areca nut having been seized by the police, the continuation of the present petitioners in judicial custody is no longer warranted having regard to the fact that the petitioners are not having any criminal antecedents.
11. Per contra, learned HCGP reiterating the grounds urged in the written objections filed in Criminal Petition No.697/2023 and adopting the same in Criminal Petition No.1039/2023 opposed the bail petitions stating that the petitioners are responsible for the robbery of the areca nut and the cash, the petitioners have been identified by the complainant and therefore, there is a direct nexus between the incident and the petitioners and sought for rejections of the bail petitions.
12. In the light of the rival contentions of the parties, this Court perused the materials on record meticulously.
13. On such perusal it is seen that after registering the complaint against the unknown persons, police thoroughly investigated the matter and apprehended the present petitioners and other accused persons.
14. Based on the voluntary statements, the robbed cash and areca nut were seized by the police.
15. The petitioners are not having any criminal antecedents. Taking note of the fact that the chargesheet is filed and the identification process has already completed, this Court is of the considered opinion that in the present case, the continuation of the present petitioners in judicial custody is no longer warranted.
16. The other apprehensions expressed by the prosecution can be met with by imposing suitable and stringent conditions.
17. Accordingly, this Court passes the following:

ORDER

1. The Criminal Petitions are allowed.

2. Petitioners/accused Nos.1, 5 and 6 shall be enlarged on bail on executing their personal bonds in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) each with two sureties for the like-

sum to the satisfaction of the trial Court.

3. Petitioners shall not directly or indirectly tamper the prosecution witnesses in any manner.

4. Petitioners shall attend the Court regularly.

5. Petitioners shall not indulge in similar offences.

6. Petitioners shall mark their attendance before the Investigating Agency on every third Sunday between 10.00 a.m., and 2.00 p.m., till the conclusion of the trial.

7. Petitioners shall not leave the jurisdiction of Davanagere District without prior permission. Violation of any one of the conditions would entitle the prosecution to seek for cancellation of the bail.

Ordered accordingly.

Sd/-

JUDGE DL