

# Syed Adnaan vs State Of Karnataka on 22 June, 2021

**Author: S.Sunil Dutt Yadav**

**Bench: S. Sunil Dutt Yadav**

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JUNE 2021

BEFORE

THE HON'BLE MR.JUSTICE S. SUNIL DUTT YADAV

CRIMINAL APPEAL No.251/2021

C/W

CRIMINAL APPEAL Nos.420/2021,  
543/2021, 478/2021

IN CRL.A. No.251/2021

Between:

Syed Adnaan,  
S/o Irfan Pasha,  
Aged about 25 years,  
R/at No.101,  
M.P. Factory Road,  
Kavalbaisandra,  
D.S. Max Print Apartments,  
Bangalore - 560 032. ... Appellant

(By Sri Rakshith R., Advocate)

And:

1. State of Karnataka,  
By Deverajeevenahalli P.S.,  
Rep. by Spl.PP  
At Bangalore.
2. R. Akanda Srinivas,  
S/o Late Rammayya,  
MLA, Pulakeshi Nagar,

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R/at No.32, Kaval Byrasandra,  
R. T. Nagar Post,  
Bangalore - 32.

... Respondents

(By Sri P. Prasanna Kumar, Spl. P.P. for R1;  
Sri Murthy Dayanand Naik, Advocate for R2)

This Criminal Appeal is filed under Section 14A(2) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities Act, 1989) praying to enlarge the petitioner on bail in Cr.No.219/2020 (Spl.C.No.744/2020) Devarajeevanahalli Police Station, Bengaluru for the offences p/u/s 143, 144, 145, 447, 448, 435, 436, 395, 427, 120B r/w 149 of IPC and Section 2 of KPDLP Act and Section 3(1)(c), 3(2)(iii),(iv),(v),(va) of SC/ST (POA) Act pending on the file of LXX Additional City Civil and Sessions Judge and Special Judge, Bengaluru.

IN CRL.A. No.420/2021

Between:

Shafeeq Khan @ Shafiulla,  
S/o Mahaboob Shab,  
Aged about 35 years,  
Residing at No.176,  
4th Cross, Venkateshwara Nagar,  
Bangalore District - 560 091.

Also known as:  
Shafiulla @ Shafi Khan,  
S/o Late Mahaboob Sab,  
Residing at No.10, 3rd Floor,  
Achutrai Mudliar Road,  
Fraser Town,  
Bengaluru - 560 005.

... Appellant

(By Sri A.S. Kulkarni, Advocate)

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And:

1. The State of Karnataka,  
By Devarajeevanahalli Police Station  
Bangalore - 560 045.  
(Central Crime Branch)  
Represented by  
The Special Public Prosecutor,  
High Court Building,  
Bangalore - 560 001.

2. Sri R. Akhanda Srinivasa Murthy,  
S/o Late Ramaiah,  
Aged about 50 years,  
MLA, Pulikesh Nagar Constituency,  
No.32, Kaval Byrasandra,  
R. T. Nagar Post,  
Bangalore - 32. ... Respondents

(By Sri P. Prasanna Kumar, Spl. P.P. for R1;  
Sri Murthy Dayanand Naik, Advocate for R2)

This Criminal Appeal is filed under Section 14A(2) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities Act, 1989) praying to (a) set aside the order dated 23.02.2021 passed by the LXX Additional City Civil and Sessions and Special Judge, Bengaluru (CCH-71) in CrI. Misc. No.1551/2021 in dismissing the bail petition filed by the appellant, the appellant/accused No.61 (b) allow this appeal and release the appellant-accused No.61 on bail in D.J. Halli P.S., Bangalore Cr.No.219/2020 (Spl.C. No.744/2020) for the alleged offences p/u/s 143, 144, 145, 447, 448, 435, 436, 395, 427, 212, 120B r/w 149 of IPC and Section 2 of Karnataka Prevention of Destruction and Loss of Property Act and Section 3(2)(iii)(iv)(v)(va) of SC/ST (POA) Act and Section 25 (1B) (b) of Arms Act on the file of the learned LXX Additional City Civil and Sessions Judge and Special Judge, Bangalore (CCH-71).

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IN CRL.A. No.543/2021

Between:

Mr. Rehman Khan  
S/o Naseer Khan,  
Aged about 21 years,  
R/a No.61, 4th Cross,  
Shampur Main Road,  
Arabic College Post,  
Bangalore - 560 045. ... Appellant

(By Sri P. Usman, Advocate a/w  
Sri Mohammed Niyaz S., Advocate)

And:

1. The State of Karnataka  
By Devarajeevenahalli Police Station  
Bangalore - 560 045  
Now Under Investigation by NIA,  
Represented by  
Special Public Prosecutor,

High Court Building,  
Bangalore - 560 001.

2. Mr. Akanda Srinivas Murthy,  
S/o Sri Late Ramaiah,  
Aged about 51 years,  
Member of Legislative Assembly,  
Pulakeshi Nagar Constituency  
No.32, Kaval Byrasandra,  
R. T. Nagar Post,  
Bangalore - 560 032. ... Respondents

(By Sri P. Prasanna Kumar, Spl. P.P. for R1;  
Sri Murthy Dayanand Naik, Advocate for R2)

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This Criminal Appeal is filed under Section 14A of the Schedule Caste and Schedule Tribes (Prevention of Atrocities Act, 1989) praying to set aside the judgment/order of rejection of bail application filed by the appellant under Section 439 of Cr.PC passed in Spl.C. No.744/2020, dated 24.03.2021 on the file of the learned LXV Additional City Civil and Sessions Judge and Special Judge at Bengaluru and enlarge the above named appellant/accused No.23 on bail in Spl.C. No.744/2020 with the respondent No.1 arising out of Cr. No.219/2020 registered by the respondent No.1 for the offences p/u/s 427, 144, 120B, 143, 145, 435, 436, 395 r/w 149 of IPC, and Section 2 of Prevention of Destruction and Loss of Property Act and under Section 3(1)(c), 3(2), (iii), (iv), (v)(va) of SC/ST (POA) Act.

IN CRL.A. No.478/2021

Between:

Arbas  
S/o Basha,  
Aged about 21 years,  
R/at # 4th Cross,  
Ayothi dass Nagar, DJ Halli,  
Bangalore North, Bangalore,  
Karnataka - 560 045. ... Appellant

(By Sri Mohammed Tahir, Advocate)

And:

1. State by Devarajeevenahalli Police Station  
Bangalore  
Represented by

Special Public Prosecutor,  
High Court Complex Building  
Bangalore - 560 001.

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2. Sri Akhanda Srinivasa Murti,  
S/o Sri Late Ramaiah,  
Aged about 50 years,  
R/at No.32, 1st Main Road,  
Kaval Bysandra,  
R. T. Nagar Post,  
Bangalore - 560 032.

... Respondents

(By Sri P. Prasanna Kumar, Spl. P.P. for R1;  
Sri Murthy Dayanand Naik, Advocate for R2)

This Criminal Appeal is filed under Section 14A(1) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities Act, 1989) praying to set aside the impugned order as Annexure-A, consequently grant regular bail to the appellant in Spl.C.No.744/2020 arising out of Cr.No.219/2020 registered with the respondent Devarajeevanahalli Police Station for the offences p/u/s 427, 144, 120B, 143, 145, 435, 436, 395 r/w 149 of IPC and Section 2 of Karnataka Prevention of Destruction and Loss of Property Act and Section 3(1)(c), 3(2), (iii), (iv), (v), (va) of SC/ST (POA) Act pending on the file of LXX Additional City Civil and Sessions Judge and Special Judge, Bengaluru, wherein the appellant arrayed as accused No.16.

These Criminal Appeals having been heard and reserved on 03.06.2021 and coming on for pronouncement of judgment through Video Conference, this day, the Court delivered the following:

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#### JUDGMENT

The appellants in all these cases have been arrayed as Accused in Crime No.219/2020 (Spl.C.No.744/2020) registered by the Devarajeevanahalli Police for the offences punishable under Sections 143, 144, 145, 447, 448, 435, 436, 395, 427, 120(B) read with Section 149 of IPC, under Section 2 of the Prevention of Destruction and Loss of Property Act, 1981, under Sections 3(1)(c), 3(2),(iii),(iv),(v),(va) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 ['SC & ST (POA) Act' for brevity] and Section 25(1B)(b) of the Indian Arms Act, 1959.

2. As the factual matrix of the incident leading to the registration of the F.I.R. is identical and all of the Accused who are appellants herein have been arrayed as Accused in Crime No.219/2020, it is

deemed appropriate to decide all these appeals by this common judgment.

3. All the Accused having been arrested and having approached the LXX Additional City Civil & Sessions Judge & Special Judge, Bengaluru (CCH-71) and their petitions filed under Section 439 of Cr.P.C. having been dismissed, have invoked the statutory remedy of appeal under Section 14-A(2) of the SC & ST (POA) Act challenging the order of rejection of bail petitions and are seeking to be enlarged on bail.

4. The complaint came to be filed by the second respondent - complainant on 14.08.2020 stating that on 11.08.2020 at about 8.00 p.m., some miscreants had trespassed into the house of complainant and had taken away the documents and jewellery and destroyed his house by setting it on fire. It is specifically stated in the complaint that the complainant and his brothers, Mr.Chandrashekar and Mr.Mahesh Kumar were jointly residing in the premises and that on 11.08.2020 as it was 'Krishna Janmashtami', while the family members of the complainant had gone to the Temple and when the complainant was not at home, at about 8.00 p.m., a mob of about 2,000 to 3,000 miscreants with a pre-meditated intention, armed with weapons had broken into the complainant's house and had taken away the documents and jewellery, and had set fire to the cars and two-wheelers that were parked outside the house.

5. It is further stated in the complaint that Mr.Naveen, who is the nephew of respondent No.2 had posted on his Facebook account a derogatory post about Prophet Mohammed and the Accused having entered into a conspiracy, taking advantage of the situation have attacked the house of respondent No.2 causing loss to the property. It is stated that the incident was the product of a pre-planned conspiracy to burn the family alive and hence, a complaint was lodged with the Police to take necessary action.

6. It is further stated that as the complainant was a Member of Legislative Assembly and upon advice by the Police Authorities, who had requested him not to visit the scene of the accident in light of law and order situation, maintenance of peace and security, he visited his house with Police security only on 13.08.2020 and it is thereafter that the complaint came to be lodged with the Police detailing the loss of property.

7. The Police Authorities on completion of investigation had filed the charge sheet on 14.09.2020 as regards all the Accused, except Accused Nos.57 to 61 and other Accused who were subject matter of third charge sheet, as the said Accused were absconding / unavailable at the relevant point of time. The second charge sheet came to be filed on 05.01.2021 against the remaining Accused Nos.57 to 61 and the third charge sheet came to be filed on 15.02.2021 as regards Accused Nos.12, 10, 62 and 63.

8. The details of imputation against the Accused, who are appellants herein is reflected in the Table below:-

Criminal Name and serial Offences in the charge sheet Appeal No. number of accused against the accused 251/2021 Syed Adnaan (A-26) 143, 144, 145, 447, 448, 435, 436, 395, 427 120-B read with 149 of IPC and Section 2 of KPDL Act, 1981 and Section

3(2)(iii)(iv)(v)(va) of SC/ST (POA) Act, 1989.

420/2021 Shafeeq Khan @ 143, 144, 145, 447, 448, 435, Shafiulla, (A-61) 436, 395, 427 120-B read with 149 of IPC and Section 2 of KPDL Act, 1981 and Section 3(2)(iii)(iv)(v)(va) of SC/ST (POA) Act, 1989.

543/2021 Mr. Rehman Khan 143, 144, 145, 447, 448, 435, (A-23) 436, 395, 427 120-B read with 149 of IPC and Section 2 of KPDL Act, 1981 and Section 3(2)(iii)(iv)(v)(va) of SC/ST (POA) Act, 1989.

478/2021 Arbas ( A-16) 143, 144, 145, 447, 448, 435, 436, 395, 427 120-B read with 149 of IPC and Section 2 of KPDL Act, 1981 and Section 3(2)(iii)(iv)(v)(va) of SC/ST (POA) Act, 1989.

9. Before the trial Court, the appellants/Accused had filed bail petitions which came to be rejected and the details of the orders impugned in the present appeals are as follows:-

Criminal Name and serial Date of Details of order Appeal No. number of Accused arrest passed in Crime by the Sessions Court 251/2021 Syed Adnaan 19.08.2020 Order dated (A-26) 17.11.2020 in 420/2021 Shafeeq Khan @ 29.12.2020 Order dated Shafiulla (A-61) 23.02.2021 in 543/2021 Rehman Khan 16.08.2020 Order dated (A-23) 24.03.2021 478/2021 Arbas (A-16) 18.08.2020 Order dated 15.12.2020 in

10. Sri P.Usman, learned counsel appearing for Sri Mohammed Niyaz. S., for the appellant / Accused No.23 in CrI.A.No.543/2021 has led the arguments and the legal contentions advanced by him have been adopted by the other learned counsel, who have also advanced the arguments pertaining to the facts relevant to the individual appeals.

11. Sri P.Prasanna Kumar, learned Special Public Prosecutor has advanced the arguments on behalf of respondent No.1 - State, while learned counsel, Sri Murthy Dayananad Naik has advanced the arguments on behalf of respondent No.2-complainant.

CrI.A.No.543/2021:-

Contentions of appellant:

12. Sri P.Usman, learned counsel appearing for the appellant has contended that the appellant/Accused No.23 on an earlier occasion had approached this Court in CrI.P.No.5241/2020 wherein, this Court while disposing of the petition by a detailed order declining to grant bail had observed, as the investigation was in progress as regards Accused Nos.58 and 59, who were absconding and that the release of present appellant would hamper further investigation, had reserved liberty to revive the bail application after filing of additional charge sheet. It was specifically observed that the appellant / Accused No.23 had not made out grounds for grant of bail at the relevant juncture.

13. Learned counsel for the complainant has contended that subsequently as Accused Nos.58 and 59 had been arrested and additional charge sheet was filed on 05.01.2021 as against some of the remaining Accused and that all the conspirators, viz., Accused No.57 (vide order dated 12.02.2021 passed in CrI.A.No.242/2021), Accused No.58 (vide order dated 05.02.2021 in CrI.A.No.14/2021) and Accused No.59 (vide order dated 12.02.2021 in CrI.A.No.218/2021), were enlarged on bail and as the investigation having been substantially completed and considering the time spent in custody, case was made out for reconsideration of the matter and for enlarging the appellant on bail while setting aside the order rejecting his bail petition by the learned Sessions Judge.

14. It was also the stand of the Prosecution that the appellant/Accused No.23 knowing that respondent No.2 belonged to Scheduled Caste community, had proceeded to 'loot', 'defame' and 'blemish' the reputation of respondent No.2.

15. Sri P. Usman drawing attention to the statement of CW-85 (Pavan Kumar, H.C.No.8568 at Devarajeevahalli Police Station) states that the statement was recorded on 10.09.2020, though the incident was stated to have occurred on 11.08.2020, with considerable delay. It is submitted that the said allegations are vague and do not assign any specific role/overt act to the appellant/Accused.

16. It is further submitted that the other statements of CW-86 (Ravi Kumar H.C.9207, Devarajeevanahalli Police Station), CW-87 (Mahesh Ingalagi, P.C.14081, Devarajeevanahalli Police Station), CW-88 (Ashok, P.C.11501, Devarajeevanahalli Police Station) contain identical imputations as made out in the statement of CW-85 and accordingly, all that could be made out is that even if the version of Investigating Authority is to be accepted, the imputation is that the appellant/Accused No.23 was instigating the crowd, was part of the mob and had pelted stones on the fire engine vehicle and apart from such imputations, there is nothing further made out against the appellant and therefore, he is entitled to be enlarged on bail.

17. It is further contended that the appellant is also entitled to be enlarged on bail on the principle of parity. The learned counsel has enclosed a Chart alongwith the memo dated 23.05.2021 pointing out to the overt acts of the Accused who were eventually enlarged on bail. The extract of the relevant portion of the Chart as relied upon by the appellant is as follows:-

Sl. No.	Accused Name & status of Accused.	Overt-act	Remark
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1 Mohammed Jameel- CW-10. Bail granted Accused No.29 "The Accused was in CrI.A. No. setting fire to the house 1318/2020, of the MLA, Akanda by Order Srinivas Murthy and to dated his Motor Cycles and cars 02-02-2021.

parked outside the MLA's House".

"When a fire had extinguished on a vehicle, the accused extended the fire to the



other vehicles, I could recognise Mohammad Jameel along with Imran from Modi Road, Tousif, Mohammad Nadeem, Liyakath S/o Abid, Syed Moheen S/o Muneer, Imthiyaz @ Sait from Modi Road, Waseem S/o Jabbar and others in the crowd".

2. Sajjad Khan-Accused CW-9 Bail granted

No.34. "When I saw through the in Crl.A. No. window of my house, 371/2021, By there were 1000 Order dated miscreants rushing 19-03-2021.

towards the MLA's House who then entered the first floor and started throwing out the household items and setting fire on it". "and also poured petrol and set fire on the vehicles which were parked outside the MLA's House, I could recognise Sajjad Khan along with Accused Liyakath, Syed Nayeem, Waseem, Salman, Syed Ayaz and others in the crowd".

3. Mujju @ Mujahid Khan-Accused No. 35 CW-11, CW-16 and CW-19. Bail granted in Crl. A. No. 98/2021 By Order dated 30-03-2021.

"Entered the office of the MLA, Akanda Srinivasa Murthy and set fire to his office as well as house of the MLA and to the Vehicles parked outside the MLA's house, they all had weapons like machete and 'Macchu in their hands. I could recognise the accused Mujju@ Mujahid Khan along with Tousif, Abrar, Abdul Rasheed, Syed imran, adnan maqbool and others" in the crowd.

18. It is submitted that on the principle of parity, the appellant is to be enlarged on bail in light of Accused No.29 being enlarged on bail, who in fact was also a participant in the crime and against whom as is evident from the Chart hereinabove, the imputations were far more serious. Reliance is placed on the order dated 14.06.2018 passed in Crl.P.No.4072/2018 and the learned counsel draws attention to para-12 of the order, wherein it is observed that "judicial uniformity and consistency require the Court to extend the principle of parity to the co-accused before it."

19. Lastly, it is contended that the appellant was enlarged from detention by Commercial Street Police Station in Crime No.76/2020 at 8.00 p.m. and as the roads were blocked as has come out from the statement of CW-2, the presence of appellant at the scene of crime which is about 5 Kms. from Commercial Street Police Station at a contemporaneous point of time is doubtful.

20. It is submitted that the learned Sessions Judge has passed an order without application of mind and without considering the contentions raised, ignoring the observations made by this Court, granting liberty to approach afresh in Crl.P.No.5241/2020.

21. It is submitted that there were no criminal antecedents and the presence of appellant during trial could be secured by appropriate conditions to be imposed by the Court, that there was neither recovery nor any prima facie material to pinpoint the identity, that in light of involvement of large number of Accused, the Police ought to have resorted to Test Identification Parade, which is absent herein.

#### Contentions of respondents:

22. As regards appellant/Accused No.23, the Prosecution placing reliance on the statements of CW-85 and CW-88 has stated that he had pelted stones at the fire engine vehicle and set fire to several vehicles parked outside the house of respondent No.2. It is also averred that he was a part of the mob that had constituted itself into an unlawful assembly and looted the house of respondent No.2.

23. Sri P. Prasanna Kumar, learned Special Public Prosecutor appearing for the respondent-State has contended that no doubt, the appellant was arrested in Crime No.76/2020, but was released at around 8.00 p.m. on 11.08.2020 from the Commercial Street Police Station and could have thereafter travelled to the scene of crime which was at a short distance from Commercial Street Police Station.

24. It was further submitted that the plea of alibi raised by the appellant is a matter to be established in trial and cannot be looked into at this stage.

25. It is further contended that this being a second effort to obtain bail after disposal of Crl.P.No.5241/2020 on 23.11.2020, the appeal is to be entertained only on the grounds made out, of changed circumstances which is not clearly forthcoming.

26. Reliance is placed on the judgment of Apex Court in the case of Virupakshappa Gouda and Another v. State of Karnataka and Another reported in (2017) 5 SCC 406 to contend that filing of charge sheet cannot be construed to be a change in circumstance, while countering the submission of learned counsel for the appellant.

27. Sri Murthy Dayanand Naik, learned counsel appearing for respondent No.2 has adopted the submissions of Special Public Prosecutor.

Crl.A.No.251/2021:

Contentions of appellant:-

28. Sri Rakshith.R, learned counsel appearing for the appellant/Accused No.26 submits that the appellant was arrested on 19.08.2020 and was produced before the trial Court on 20.08.2020 and remanded to judicial custody on the same day.

29. It is submitted that even as per the material relied upon by the respondents, the appellant has been made out to be an instigator. It is stated that the respondents rely upon the statements of CW-2, CW-11, CW-27 and CW-29.

30. CW-2 who is stated to be the brother of respondent No.2, in his statement has stated that the appellant alongwith others was instigating the mob to set fire. The statement of other witnesses, i.e. CW-11 though as noted the presence of appellant at the scene of crime, however, has not made out any further imputation as regards to his participation in the crime.

31. It is submitted that the appellant is entitled to be enlarged on bail on the principle of parity, as the appellant is similarly situated as Accused No.35, who has been enlarged on bail as per the order dated 30.03.2021 passed in Crl.A.No.98/2021.

32. It is pointed out that as regards Accused No.35, witnesses CW-85, CW-86 and CW-87 have unequivocally asserted that the said Accused was a participant and as the said Accused has been enlarged on bail and the present appellant stands on a similar footing, even if the story of Prosecution is to be accepted in entirety, the appellant is entitled for bail on the ground of parity.

33. It is also contended that the statements of CW-2 does not find a mention in the Case Diary and the same cannot be relied upon in light of lapse in adherence to the procedure under Section 172 of Cr.P.C.

34. It is pointed out that the learned Sessions Judge while passing the impugned order at para-40 has in fact observed that the statement of CW-2 is not a part of the Case Diary. Attention is also drawn to the observations at para-65 of the impugned order, wherein the Sessions Court has observed that there is some doubt as regards to commission of offence under SC & ST (POA) Act. The observation at para-67 of the impugned order that the appellant had no intention to abscond and the observation at para-68 that there was no incriminating material seized from his possession,

however, has been ignored while proceeding to reject the bail petition.

Contentions of respondent No.1:

35. Sri P. Prasanna Kumar, learned Special Public Prosecutor appearing for the respondent - State has contended that a close reading of the statement of CW-2 would indicate that the appellant had also set fire to the house and vehicles and the identity is established by the statements of CW-11, CW-16 and CW-27. It is also pointed out that CW-29, CW-87 and CW-88 have deposed that the appellant had caused damage to the vehicle and was also a part of the mob, CW-31 has identified the appellant as having attacked the passers-by who were videographing the incident.

36. It is also submitted that CW-85 has specifically averred that the appellant was pelting stones at the fire engine vehicle. It is contended that the trial Court at para-35 has recorded a finding regarding the admission of appellant regarding his presence at the spot of crime, which calls for no interference.

37. Sri Murthy Dayanand Naik, learned counsel appearing for respondent No.2 has adopted the submissions of Special Public Prosecutor.

38. Sri Mohammed Tahir, learned counsel appearing for the appellant/Accused No.16 submits that there are no serious allegations in the form of overt acts as could be made out from the statement of witnesses.

39. While CW-8 who is the neighbour of respondent No.2 has merely stated that he saw the appellant going towards the MLA's house, CW-85 and CW-86 have stated regarding the investigation and entrustment to them and the said witnesses have not made out any other incriminatory statement as against the appellant.

40. It is stated that CW-98 and CW-99 were Police officials and had apprehended the appellant on the basis of information received from sources regarding their involvement and their statements do not throw light on any other aspect.

41. Learned counsel for the appellant submits that the previous bail petitions were filed, which are as follows:

(i) Crl.Misc.No.5534/2020 - disposed off on 15.10.2020 and there was no reference to the charge sheet as is evident from the observation at para-17 of the order and the matter was disposed off on the basis of other material.

(ii) Crl.Misc.No.7295/2020 - disposed off on 15.12.2020 after filing of charge sheet without assigning any detailed reasons by merely relying upon the observations in Crl.P.No.4606/2020 disposed off on 05.11.2020, to the effect that power to enlarge on bail must be exercised cautiously.

(iii) As on the date of disposal of Crl.Misc.No.2554/2021 on 25.03.2021, there was another Criminal Miscellaneous Petition filed, however, the same has been withdrawn subsequently and the said aspect is not in dispute.

42. It is submitted that after disposal of Crl.Misc.No.5534/2020, there have been subsequent events including release of Accused Nos.57 and 58, who were conspirators and second charge sheet was also filed with no imputation as regards to the appellant.

43. It is submitted that the learned Sessions Judge has not adverted to the contentions relating to subsequent events (though at para-21 of the bail petition, the said aspect has been specifically raised) and has merely referred to the earlier order passed in Crl.Misc.No.5295/2020 and while observing that it was a successive bail application, has dismissed the same recording a finding that no grounds were made out.

44. In fact, it is contended that the Sessions Court while disposing of Crl.Misc.No.7295/2020 on 15.12.2020 has specifically recorded the contention of Prosecution that the investigation was in progress and that grant of bail to the appellant herein would hamper the investigation. Accordingly, the filing of second charge sheet and enlarging the other Accused on bail, viz., Accused Nos.57 and 58 ought to have been taken note of while passing the impugned order.

45. It is submitted that the appellant has no criminal antecedents. He is a tea vendor and there has been no recovery and he is in custody since 18.08.2020 and taking note of all the above facts, the appeal deserves to be allowed.

#### Contentions of respondent No.1:

46. Sri P. Prasanna Kumar, learned Special Public Prosecutor appearing for respondent No.1 states that CW-8 has categorically stated that the appellant was a part of the mob and had been identified.

47. It is submitted that the question of parity may not be of much relevance and the other Accused, viz., Accused Nos.57 and 58 were conspirators, while the present appellant was a participant in the commission of crime, and the aspect of parity has to be established with specific reference to the similarity of the imputations.

48. It is further submitted that the second charge sheet deals with the conspirators and has nothing to do with the present appellant with respect to whom the investigation was concluded at the time of filing of the first charge sheet itself.

49. It is further submitted that the bail granted as regards some of the other Accused have also been challenged before the Apex Court and are pending consideration, which needs to be taken note of. Crl.A.420/2021:

#### Contentions of appellant:

50. Sri A.S.Kulkarni, learned counsel for the appellant / Accused No.61 submits that the appellant has been arrested on 29.12.2020 and has been in custody since then.

51. It is further submitted that there are no criminal antecedents and the appellant is a social worker and has been falsely implicated in the present case. It is stated that the Prosecution relies upon the statements of CW-6, CW-17, CW-19, CW-20, CW-21 and CW-22 to make out a case against the appellant, which however only make out an imputation that the appellant was involved in the conspiracy stated to have taken shape at 'Haseena Hall' on 22.05.2020 leading to the final incident on 11.08.2020 and they do not speak about the appellant being a direct participant in the incident that occurred on 11.08.2020.

52. It is also submitted that the imputation against the present appellant is similar to the imputation as against Accused Nos.57, 58 and 59 as regards their participation in the conspiracy and such of the Accused having been enlarged on bail, the appellant is also entitled for the relief on the ground of parity and relies on the order dated 12.02.2021 passed by this Court in Crl.A.No.242/2021 c/w Crl.A.No.218/2021. Attention is drawn to the observation at para-11 of the judgment dated 05.02.2021 passed in Crl.A.No.14/2021 wherein, the Court has observed that the material to connect the conspiracy to the incident was absent.

53. It is further submitted that the learned Sessions Judge has rejected the petition by referring to the observations in Crl.P.No.4606/2020 wherein this Court had observed that the power to grant bail ought to be exercised cautiously and that granting of bail would not pave way for the smooth completion of investigation. However, it is submitted that the investigation now being complete, learned Sessions Judge has failed to exercise the discretion appropriately.

54. It is further contended that the trial Court has merely observed that the bail application of co-accused has been rejected which is also not a ground to reject the application of appellant which needs to be looked at independently on the basis of facts and material particulars as against the appellant.

55. It is also submitted that the observations of Sessions Court regarding the existence of prima facie material to show the involvement of appellant is contrary to the available material. Accordingly, he has sought for allowing of the appeal.

Contentions of respondent:

56. Sri P. Prasanna Kumar, learned Special Public Prosecutor appearing for the respondent-State submits that the statements of CW-6, CW-12, CW-17, CW-19, CW-20, CW-21 and CW-22 would point out to the involvement of appellant in the conspiracy.

57. Sri Murthy Dayanand Naik, learned counsel appearing for respondent No.2 has adopted the contentions of Special Public Prosecutor.

58. Sri Murthy Dayanand Naik, the learned counsel appearing for respondent No.2 has also relied on the judgment of Apex Court in the case of Prasanta Kumar Sarkar v. Ashis Chatterjee and Another reported in (2010) 14 SCC 496. Para-9 of the decision is extracted hereinbelow:-

"9. We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail.

[See State of U.P. v. Amarmani Tripathi [(2005) 8 SCC 21 : 2005 SCC (Cri) 1960 (2)] (SCC p. 31, para

18), Prahlad Singh Bhati v. NCT of Delhi [(2001) 4 SCC 280 : 2001 SCC (Cri) 674] , and Ram Govind Upadhyay v. Sudarshan Singh [(2002) 3 SCC 598 : 2002 SCC (Cri) 688]."

59. It is contended that in the present case, there are reasons to believe that the appellant has committed the offence, gravity of accusation is serious as also the severity of punishment in the event of conviction, all of which as stipulated in the judgment referred to above, if taken note of, would disentitle the appellant for grant of bail. Considerations while granting bail:

60. After a detailed hearing, what comes out from the arguments of learned Special Public Prosecutor appearing on behalf of respondent-State as well as the second respondent-complainant opposing the grant of bail is that the respondents rest their case on the premise that the gravity of offence as made out would indicate the burning down of the house of Member of Legislative

Assembly as well as the destruction of property in the form of burning of vehicles parked in and around the house of respondent No.2, creation of an atmosphere of fear by a unruly mob of about 2,000 to 3,000 and accordingly, taking note of the same, societal interests would demand, dealing with such of the Accused with due stringency and accordingly, the discretionary jurisdiction regarding the grant of bail should lean towards the rejection of bail petitions, taking note of the facts of the present case.

61. Learned Special Public Prosecutor has relied on the following Authorities in support of his contention that the appeals ought to be dismissed.

(i) Suneel Roy v. State of Uttar Pradesh - (1998) SCC Online All 1178 - (para 17) - attacking of Police Inspector and Constables has an impact on the public watching it and the same would have an impact on public at large.

(ii) Varinder Kumar v. State of Himachal Pradesh - (2020) 3 SCC 321 - (para 12) - Human rights are not only of the accused but also of the victim.

(iii) Chandrakeshwar Prasad alias Chandu Babu v. State of Bihar and Another - (2016) 9 SCC 443 - (paras 10 & 11) - Individual liberty and interests of Society need to be balanced.

(iv) Virupakshappa Gouda and Another v. State of Karnataka and Another - (2017) 5 SCC 406 - (paras 13 to

15) - Filing of charge sheet does not lessen the allegations - gravity of the offence must also be considered while granting bail.

(v) Suresh Jaiswal v. D.M. Lucknow and Others - 1986 SCC Online All 462 - (para-8) - Attack on Police personnel while discharging the duty amounts to disturbing the tempo of life.

62. On the other hand, the appellants have submitted that the right to be enlarged on bail is an aspect of individual liberty that flows from Article 21 of the Constitution of India and deprivation of such right must be in accordance with law. It is further contended that the sentiments of society ought not to sway the Court and as the investigation is complete and the charge sheets have been filed, in the absence of requirement of custodial interrogation, the continuance of detention of the appellants would not serve any purpose while keeping in mind the principle, 'bail, not jail' is the rule.

63. Learned counsel for the appellants have relied on the following authorities.

(i) Arnab Manoranjan Goswami v. State of Maharashtra and Others - 2021 (2) SCC 427 - relying on para-63 for the principle "bail, not jail", containing reference to the earlier judgment of the Apex Court in the case of State of Rajasthan, Jaipur v. Balchand (1977) 4 SCC 308 on the same principle.



(ii) Sanjay Chandra v. Central Bureau of Investigation - (2012) 1 SCC 40 - (para-40) - Bail is not to be denied merely because the sentiments of community are against the accused.

(iii) Crl.P.No.776/2020 a/w Crl.P.No.778/2020, Crl.P.No.860/2020, Crl.P.No.957/2020 disposed on 17.02.2020 - (para-10) - In an offence involving large number of Accused, identity and participation of each Accused must be fixed with reasonable certainty.

(iv) Dataram Singh v. State of U.P. and Another - (2018) 3 SCC 22 - Grant of bail is a general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception.

64. The Apex Court in the case of Arnab Manoranjan Goswami v. State of Maharashtra and Others reported in (2021) 2 SCC 427 has considered the scope of power that is exercised while granting bail, though in the context of Article 226 of the Constitution of India has observed as follows:

"64. While considering an application for the grant of bail under Article 226 in a suitable case, the High Court must consider the settled factors which emerge from the precedents of this Court. These factors can be summarised as follows:

64.1. The nature of the alleged offence, the nature of the accusation and the severity of the punishment in the case of a conviction.

64.2. Whether there exists a reasonable apprehension of the accused tampering with the witnesses or being a threat to the complainant or the witnesses.

64.3. The possibility of securing the presence of the accused at the trial or the likelihood of the accused fleeing from justice.

64.4. The antecedents of and circumstances which are peculiar to the accused.

64.5. Whether prima facie the ingredients of the offence are made out, on the basis of the allegations as they stand, in the FIR.

64.6. The significant interests of the public or the State and other similar considerations.

65. These principles have evolved over a period of time and emanate from the following (among other) decisions : Prahlad Singh Bhati v. State (NCT of Delhi) [Prahlad Singh Bhati v. State (NCT of Delhi), (2001) 4 SCC 280 : 2001 SCC (Cri) 674] ; Ram Govind Upadhyay v. Sudarshan Singh [Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 :

2002 SCC (Cri) 688] ; State of U.P. v. Amarmani Tripathi [State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21 : 2005 SCC (Cri) 1960 (2)] ; Prasanta Kumar Sarkar v.

Ashis Chatterjee [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 :

(2011) 3 SCC (Cri) 765] ; Sanjay Chandra v. CBI [Sanjay Chandra v. CBI, (2012) 1 SCC 40 : (2012) 1 SCC (Cri) 26 : (2012) 2 SCC (L&S) 397] and P. Chidambaram v. CBI [P. Chidambaram v. CBI, (2020) 13 SCC 337 : (2020) 4 SCC (Cri) 528] .

66. These principles are equally applicable to the exercise of jurisdiction under Article 226 of the Constitution when the court is called upon to secure the liberty of the accused. The High Court must exercise its power with caution and circumspection, cognizant of the fact that this jurisdiction is not a ready substitute for recourse to the remedy of bail under Section 439 CrPC. In the backdrop of these principles, it has become necessary to scrutinise the contents of the FIR in the case at hand. In this batch of cases, a prima facie evaluation of the FIR does not establish the ingredients of the offence of abetment of suicide under Section 306 IPC. The appellants are residents of India and do not pose a flight risk during the investigation or the trial. There is no apprehension of tampering of evidence or witnesses. Taking these factors into consideration, the order dated 11-11-2020 [Arnab Manoranjan Goswami v. State of Maharashtra, (2021) 1 SCC 802] envisaged the release of the appellants on bail".

Further observations at para-70 would also indicate conclusively the nature of exercise of power as follows:

"70. More than four decades ago, in a celebrated judgment in State of Rajasthan v. Balchand [State of Rajasthan v. Balchand, (1977) 4 SCC 308 : 1977 SCC (Cri) 594] , Krishna Iyer, J. pithily reminded us that the basic rule of our criminal justice system is "bail, not jail" [ These words of Krishna Iyer, J. are not isolated silos in our jurisprudence, but have been consistently followed in judgments of this Court for decades. Some of these judgments are : State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21 : 2005 SCC (Cri) 1960 (2) and Sanjay Chandra v. CBI, (2012) 1 SCC 40 : (2012) 1 SCC (Cri) 26 : (2012) 2 SCC (L&S) 397] . The High Courts and courts in the district judiciary of India must enforce this principle in practice, and not forego that duty, leaving this Court to intervene at all times. We must in particular also emphasise the role of the district judiciary, which provides the first point of interface to the citizen. Our district judiciary is wrongly referred to as the "subordinate judiciary".

It may be subordinate in hierarchy but it is not subordinate in terms of its importance in the lives of citizens or in terms of the duty to render justice to them. High Courts get burdened when courts of first instance decline to grant anticipatory bail or bail in deserving cases. This continues in the Supreme Court as well, when High Courts do not grant bail or anticipatory bail in cases falling within the parameters of the law. The consequence for those who suffer incarceration are serious. Common citizens without the means or resources to move the High Courts or this Court languish as undertrials. Courts must be alive to the situation as it prevails on the ground--in the jails and police stations where human dignity has no protector. As Judges, we would do well to remind ourselves that it is through the instrumentality of bail that our criminal justice system's primordial interest in

preserving the presumption of innocence finds its most eloquent expression. The remedy of bail is the "solemn expression of the humaneness of the justice system"

[ Arghya Sengupta and Ritvika Sharma, 'Saharashri and the Supremes', (The Wire, 23-6-2015) available at <<https://thewire.in/economy/saharashri-and-the-supremes>>] . Tasked as we are with the primary responsibility of preserving the liberty of all citizens, we cannot countenance an approach that has the consequence of applying this basic rule in an inverted form. We have given expression to our anguish in a case where a citizen has approached this Court. We have done so in order to reiterate principles which must govern countless other faces whose voices should not go unheard".

65. It could be stated that the summary of comprehensive encapsulation of exercise of power while considering applications for grant of bail is contained in the above observations, while noticing that the Apex Court has referred to all of the leading authorities on the said aspect, including Prahlad Singh Bhati v. State (NCT of Delhi) [Prahlad Singh Bhati v. State (NCT of Delhi), (2001) 4 SCC 280 : 2001 SCC (Cri) 674]; Ram Govind Upadhyay v. Sudarshan Singh [Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598 : 2002 SCC (Cri) 688]; State of U.P. v. Amarmani Tripathi [State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21 : 2005 SCC (Cri) 1960 (2)] ; Prasanta Kumar Sarkar v. Ashis Chatterjee [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765]; Sanjay Chandra v. CBI [Sanjay Chandra v. CBI, (2012) 1 SCC 40 : (2012) 1 SCC (Cri) 26 : (2012) 2 SCC (L&S) 397] and P. Chidambaram v. CBI [P. Chidambaram v. CBI, (2020) 13 SCC 337 : (2020) 4 SCC (Cri) 528].

66. As regards the contention of the Prosecution that amongst the considerations for granting bail, "gravity" is the pre-eminent consideration, it must be noted that the said consideration when taken note of cannot be to the absolute exclusion of all other considerations.

67. The observations of the Apex Court in Sanjay Chandra v. Central Bureau of Investigation reported in (2012) 1 SCC 40 would be of relevance, which is as follows:

"43. ... It is not in the interest of justice that the accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet."

(emphasis supplied)

68. The said position has been reiterated by the Apex Court in the case of Manoranjana Sinh alias Gupta v. Central Bureau of Investigation reported in (2017) 5 SCC 218. The relevant portion of

para-16 of the said decision is extracted hereinbelow:

"16. ... It was elucidated that the seriousness of the charge, is no doubt one of the relevant considerations while examining the application of bail but it was not only the test or the factor and that grant or denial of such privilege, is regulated to a large extent by the facts and circumstances of each particular case. That detention in custody of undertrial prisoners for an indefinite period would amount to violation of Article 21 of the Constitution was highlighted."

(emphasis supplied)

69. The Apex Court in the case of P. Chidambaram v. Directorate of Enforcement reported in (2020) 13 SCC 791 [Bench of Three Judges] has clarified the position as follows:

"23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of "grave offence" and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused.

One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial.

(emphasis supplied)

70. No doubt, learned counsel for the respondent has relied on the judgment of Apex Court in the case of Satish Jaggi v. State of Chhattisgarh and others reported in (2007) 11 SCC 195 (Bench of Two

Judges). However, the said judgment while it reiterates that "gravity" is a prime consideration, it must be noted that the observations were made in the context of non-consideration of gravity of offence while passing the impugned order, which was a subject matter of appeal before the Apex Court.

71. However, the said judgment is prior to point of time to the judgment in P.Chidambaram's case (supra), and it must be noted that the said judgment rendered by a Bench of Three Judges needs to be given due precedence and P.Chidambaram's case indicates that the gravity of the offence is one of the factors apart from triple test.

72. Accordingly, it could be construed that the aspect of gravity of the offence cannot be to the exclusion of other factors including the triple test as referred in the said decision. Hence, the contention of the Prosecution that gravity must be given precedence to the exclusion of other factors, is liable to be rejected.

73. As regards to the aspect of change in circumstance that is to be reckoned where successive bail applications are being considered, it must be noted that when co-accused who are similarly placed have been subsequently released on bail, such a circumstance would be sufficient for reconsideration of the bail application. The Co-ordinate Bench of this Court has taken the same view in CrI.P.No.4072/2018 disposed off on 14.06.2018 (see para-

12).

74. Accordingly, even where the bail application has been rejected on its merits, the subsequent enlargement of a co-accused, who is similarly placed could be considered as a change in circumstance for reconsideration of the bail application on the principle of parity so as to maintain consistency in approach.

75. The learned Special Public Prosecutor appearing on behalf of the Prosecution relied on the judgment in the case of Virupakshappa Gouda and Another v. State of Karnataka and Another reported in (2017) 5 SCC 406, to contend that the filing of successive bail application after filing of charge sheet in the interregnum would not in any manner be of much relevance insofar as filing of the charge sheet would not lessen the allegations as against the Accused, but establishes that after due investigation charge sheet has been filed against the Accused, requires consideration. However, in the facts of the present case, what is to be noticed, is that multiple charge sheets have been filed with respective Accused at difference points of time. Despite charge sheet being filed against the appellants, the Court has granted liberty to the appellants to move afresh after conclusion of investigation against the co-accused.

76. In light of filing of subsequent charge sheet as against the other Accused, if no additional incriminatory material is putforth against the appellants herein in the subsequent charge sheet, the said aspect could be taken note of while reconsidering the bail application. Accordingly, the judgment in Virupakshappa gouda (supra) would not be of any relevance, considering the present factual matrix which involves a large number of Accused and filing of multiple charge sheets.

77. Insofar as reliance by the Prosecution on the judgments referred to at para-61 (supra) is concerned, the judgments at Sl.Nos.(i) and (v), it must be noted that the particular facts of the case under consideration involved attack of Police personnel and the impact of such incident was being considered. It must be noted that insofar as attack of the Police Station which was a connected incident in the present case, separate proceedings have been lodged against the Accused (excluding the appellants herein) and accordingly, the above judgments would not be of much relevance to the present factual matrix.

78. There is no quarrel as regards the principle of law laid down in the judgments referred to at (ii) and (iii) of para-61. A judicious balance needs to be maintained between individual liberty vis-à-vis societal interests, which is specific to the factual matrix and is attempted to be made while considering the individual appeals infra.

79. In the context of the above legal framework relating to exercise of power while granting bail, each of the appeals is to be disposed off.

80. What would be of relevance is the facts of the particular case, the offences that have been made out in the charge sheet and the punishment for such offences, gravity of the offence, material available and relied upon by the Prosecution as regards the Accused as detailed in the charge sheet to implicate the Accused.

81. The following Table would illustrate the nature of offences and the punishment upon conviction which needs to be kept in mind while considering the individual cases and is detailed as follows:

Act Offence Punishment Cognizable / Bailable / Non- Non-

			cognizable	bailable
Section 427 of IPC	Mischief, causing damage	Imprisonment upto two years or fine or both.	Non-cognizable	Bailable
Section 144 of IPC	Joining an unlawful assembly armed with any deadly weapon	Imprisonment upto two years or fine or both	Cognizable	Bailable
Section 143 of IPC	Being a member of an unlawful assembly	Imprisonment for six months or fine or both.	Cognizable	Bailable
Section 145 of IPC	Joining or continuing in an unlawful assembly	Imprisonment for two years or fine or both	Cognizable	Bailable

Section 435 of IPC	Mischief by fire or explosive substance with intent to cause damage	Imprisonment for seven years and fine.	Cognizable	Bailable
Section 436 of IPC	Mischief by fire or explosive substance with intent to destroy house	Imprisonment for life or imprisonment for ten years and fine.	Cognizable	Non-bailable
Section 395 of IPC	Dacoity	Imprisonment for life or rigorous imprisonment for ten years and fine.	Cognizable	Non-bailable
Section 120-B	Criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards.	Same as for abetment of the offence which is the object of the conspiracy.	According as the offence which is the object of conspiracy is cognizable or non-cognizable.	According to the offence which is the object of conspiracy is cognizable or non-bailable
The Prevention of Destruction and Loss of Property Act, 1981	Section 2(a): Commission of mischief in terms of Section 425 of IPC and causes  loss or damage to any property.  Section 2(b): Causes loss or damage to any property in any area during the	"imprisonment for a term which shall not be less than six months but which may  extend to five years and with fine which may extend to two thousand rupees"	Cognizable as per Schedule - II of Cr.P.C.	Non-Bailable

period when an assembly of five or more persons in such area is prohibited by or under any law for the time being in force.

SC/ST  
(Prevention of  
Atrocities) Act,  
1989

Section 3(2),  
(iii), (iv), (v),  
(va).

Section 3(2)(iii):  
Imprisonment for  
a term which  
shall not be less  
than six months  
but it may  
extend to seven  
years with fine.

Cognizable

Non-Bail  
as per P  
II of Fi  
Schedule  
Cr.P.C.

Section 3(2)(iv):  
imprisonment for  
life and with fine.

Cognizable

Non-Bail  
as per P  
II of Fi  
Schedule  
Cr.P.C.

Section 3(2)(v):  
imprisonment for  
life and with fine.

Cognizable

Non-Bail  
as per P  
II of Fi  
Schedule  
Cr.P.C.

Section 3(2)(va):  
Punishment as  
per offence made  
out under Indian  
Penal Code.

Cognizable/Non  
-cognizable as  
per offence  
made out under  
IPC.

Bailable  
-bailabl  
per offe  
made  
under IP

Indian Arms  
Act, 1959

Section  
25(1B)(b)

punishable with  
imprisonment for  
a term which  
shall not be less  
than one year  
but which may  
extend to three  
years and shall  
also be liable to  
fine:  
Provided that the  
Court may for  
any adequate

Cognizable as  
per Section 38,  
of the Act.

Bailable  
As per Part-  
II of First  
Schedule of  
Cr.P.C.



and special  
reasons to be  
recorded in the  
judgment impose  
a sentence of  
imprisonment for  
a term of less  
than one year."

82. It is also to be noted that the mob involved in the incident is stated to consist of about 2,000 to 3,000 people which is a large congregation and only some of the Accused having been identified, one of the usual tools for identification to be resorted by the Investigating Agency is the Test Identification Parade, which is absent in the present case.

83. It also ought to be noted that in the event of identification by a witness who is familiar with the Accused, there would be an enhanced duty on the witness to clearly specify the overt act of the accused. In the absence of specific imputation, if by virtue of Section 149 of IPC the Accused is sought to be proceeded with, the said aspect while considering the bail petitions must be viewed with great circumspection, as the establishment of common object is best left to be established during trial in light of the discussion made infra. Such an approach would also be necessary in light of the law laid down as to the manner of weighing and appreciating the evidence in the context of Section 149 of IPC as laid down by the Apex Court in the case of Masalti and Others v. State of Uttar Pradesh reported in AIR 1965 SC 202. The observations of the Apex Court at para-15 of the decision need to be taken note of, which is as follows:

"15.....Appreciation of evidence in such complex case is no doubt a difficult task; but criminal courts have to do their best in dealing with such cases and it is their duty to sift the evidence carefully and decide which part of it is true and which is not. In the present case, the High Court has in fact refused to act upon the evidence of Bahoran and Prabhu Dayal, because it appeared to the High Court that the evidence of these two witnesses suffered from serious infirmities."

84. In light of consequence of imputing the common object under Section 149 of IPC, any presumption regarding the same at the stage of granting bail may not be appropriate considering the absence of Test Identification Parade, C.C. TV footage and other material pointing out to the identification of Accused, more so, as the statements of witnesses, including that of Police personnel are recorded with considerable delay. Accordingly, in light of the discussion made above, the contention of respondents that the aspect of Section 149 of IPC must also be taken note of at this stage to deny bail cannot be accepted.

85. It must also be noted that in many of the cases as would come out while dealing with the individual appeals, there is considerable delay in recording the statement. Taking note that in many of the cases, the statement of Police itself was recorded after considerable delay justifiably many doubts have arisen which at the present stage of considering the bail petition would enure to the benefit of the Accused.

86. It ought to be noted that only the offences punishable under Sections 435, 436 and 395 of IPC, Section 3(2)(v) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 provide for punishment of imprisonment above seven years. Said aspect is also to be kept in mind while considering the individual cases in the context of offence as made out against the Accused and the material relied upon while filing the charge sheet.

87. Yet another aspect that may require to be looked into is the specific case of the appellants that they are entitled to be enlarged on bail on the ground of parity, as the imputations made against them are not graver than the imputation made against Accused Nos.29, 34 and 35. The following Table would illustrate the nature of imputation made against the Accused referred to above.

Sl. No.	Accused Name & status of Accused	Overt-act	Remark
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1 Mohammed Jameel- CW-10. Bail granted Accused No.29 "The Accused was in CrI.A. No. setting fire to the house 1318/2020, of the MLA, Akanda by Order Srinivas Murthy and to dated his Motor Cycles and cars 02-02-2021.

parked outside the MLA's House".

"When a fire had extinguished on a vehicle, the accused extended the fire to the other vehicles, I could recognise Mohammad Jameel along with Imran from Modi Road, Tousif, Mohammad Nadeem, Liyakath S/o Abid, Syed Moheen S/o Muneer, Imthiyaz @ Sait from Modi Road, Waseem S/o Jabbar and others in the crowd".

2.	Sajjad Khan- Accused No.34.	CW-9 "When I saw through the window of my house, there were 1000 miscreants rushing	Bail granted in CrI.A. No. 371/2021, By Order dated 19-03-2021.
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towards the MLA's House  
who then entered the  
first floor and started  
throwing out the  
household items and  
setting fire on it".  
"and also poured petrol  
and set fire on the  
vehicles which were  
parked outside the MLA's  
House, I could recognise  
Sajjad Khan along with  
Accused Liyakath, Syed  
Nayeem, Waseem,  
Salman, Syed Ayaz and  
others in the crowd".

3.      Mujju @ Mujahid Khan- Accused No.35	CW-11, CW-16 and CW-19. "Entered the office of the MLA, Akanda Srinivasa Murthy and set fire to his office as well as house of the MLA and to the Vehicles parked outside the MLA's house, they all had weapons like machete and 'Macchu in their hands. I could recognise the accused Mujju@ Mujahid Khan along with Tousif, Abrar, Abdul Rasheed, Syed imran, adnan maqbool and others" in the crowd.	Bail granted in Crl. A. No. 98/2021 By Order dated 30-03-2021.
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Consideration of appeals:

88. It ought to be noted that in all these cases, appeals have been filed by the Accused under Section 14-A(1) of the SC & ST (POA) Act, 1989 assailing the order of trial Court rejecting the bail petition and while considering such appeal, it could be stated that the principle for enlargement on bail taken note of in a petition under Section 439 of Cr.P.C. would also be applicable in the appeal proceedings while considering enlarging the appellants on bail, apart from considering the illegality of the order impugned as made out.

Crl.A. No.420/2021:

89. The investigation is completed and the role of the present appellant as made out from the second charge sheet filed on 05.01.2021 is that appellant/Accused No.61 has participated in the incitement, instigation of the Muslim community to create violence.

90. The basis for the charge sheet as regards this appellant is stated to be the statements of witnesses, viz., CW-6, CW-17, CW-19, CW-20, CW-21 and CW-22. A perusal of statement of CW-6 recorded on 17.09.2020 would indicate that the imputation made insofar as this appellant is that he was present on 22.05.2020 in the meeting at Haseena Hall and that in order to bring a bad name to the respondent No.2, the appellant had conspired with others.

91. The statement of other witnesses relied upon by the Prosecution was recorded after much delay. Though the incident occurred on 11.08.2020, the statements of CW-17, CW-19, CW-20, CW-21 were recorded on 30.08.2020 which is on the same line as the statement of CW-6. It thus becomes apparent that the imputation is only as regards the offence of conspiracy and there is no allegation as regards his participation in the offence on 11.08.2020.

92. Insofar as the imputation that he was a part of conspiracy that took shape in the meeting at Haseena Hall on 22.05.2020, which conspiracy finally led to the violent incident on 11.08.2020, the said nexus between the conspiracy and the incident, is a matter to be established during trial.

93. Looking at the allegations made with respect to Accused Nos.57, 58 and 59 which is one of participation in the conspiracy and instigation of local community to commit offences which is the identical imputation as regards appellant/Accused No.61, the appellant is entitled to be enlarged on bail on the principle of parity as the above mentioned Accused have been enlarged on bail as follows:

Name and serial Criminal appeal Date of order number of accused number Sampath Raj (A-57) 242/2021 12.02.2021 Abdul Raqueeb Zakir 14/2021 05.02.2021 (A-58) Yasir Mohammed Hamid 218/2021 12.02.2021 (A-59) The detailed reasoning made out in Crl.A.No.14/2021 would hold good in the present case also.

94. The learned Sessions Judge has merely observed that the application filed by the co-accused having been rejected, the appellant is not entitled to be enlarged on bail which is not a correct approach, as there must be a discussion relating to the similarity in imputations and alleged role of Accused whose bail petitions were rejected vis-à-vis the case of the appellant, whose petition was under consideration.

95. The second charge sheet also makes a specific reference to the role of this appellant in the conspiracy. Undisputedly, there is no question of any further custodial interrogation as regards the present appellant.

96. The appellant had filed on an earlier occasion Crl.P.No.5241/2020 disposed off on 23.11.2020 challenging the order passed by the Sessions Court rejecting his bail petition and while rejecting the petition, this Court had observed as follows:

"19. Taking into consideration the above factual matrix of the case at hand, I am of the considered opinion that at this initial stage when the investigation is still in progress and accused Nos.58 and 59 are said to be absconding, keeping in view the said circumstances, if the petitioners- accused are released on bail it will send a wrong signal in the society and may hamper the further investigation.

20. In the light of the discussion held by me above, I am of the considered opinion that the petitioners-accused have not made out good grounds to grant bail at this juncture.

Accordingly, petitions are dismissed, however, liberty is given to the petitioners to revive their bail application after filing of the additional chargesheet.

Observation made in this order shall not come in the way of final disposal of the matter by the Trial Court."

Subsequently fresh application was filed, which came to be rejected on 24.03.2021 by the learned Sessions Judge holding that there is prima facie material to believe the involvement of appellant both in the conspiracy as well as in the commission of offence and while noting that it was a successive bail application and that there were no changed circumstances even by the filing of second charge sheet, the learned Sessions Judge had proceeded to reject the application.

97. At the outset, it must be noted that this Court while disposing of Crl.P.No.5241/2020 on 23.11.2020 had noted the following:

"(a) The investigation was still in progress as regards Accused Nos.58 and 59, who were stated to be absconding and that the release of the present appellant "may hamper the further investigation".

(emphasis supplied)

(b) "..... have not made out good grounds to grant bail at this juncture"

(emphasis supplied)

(c) Accordingly petitions are dismissed, however, liberty is given to the petitioners to revive their bail applications after filing of the additional chargesheet."

(emphasis supplied)

98. It becomes apparent that this Court while disposing of the earlier petitions was of the view that considering release of the appellant at the relevant point of time was premature, as it could have hampered investigation which was yet to be concluded, particularly, as Accused Nos.58 and 59 were absconding, the Court had declined to allow the petition while permitting revival of the bail

application subsequently.

99. Subsequent to the order dated 23.11.2020 passed in Crl.P.No.5241/2020, the Accused Nos.58 and 59 have been arrested and second charge sheet had been filed on 05.01.2021 as regards to the role of the said Accused.

100. It is contended by the respondents that there was no change of circumstances as it existed when the first order was passed by this Court on 23.11.2020. The very filing of second charge sheet was only as against the Accused Nos.57, 58 and 59 and the rejection of bail petition in Crl.P.No.5241/2020 was on the premise that the Court had felt it was not appropriate to enlarge the appellant on bail as observed above.

101. However, with subsequent investigation and filing of second charge sheet, it is open to the appellant to point out that the second charge sheet did not place him in a worse off position.

102. Even otherwise, it must be noted that the expression "at this juncture", "revive their bail application after filing of additional charge sheet" would entitle the appellants for reconsideration of their bail applications.

103. Learned counsel for the respondent has relied on the judgment of Apex Court in the case of Virupakshappa Gouda (supra) to contend that the filing of charge sheet cannot be a change of circumstance. What ought to be noted in the present case is that the first charge sheet was already filed as on the date of this Court considering Crl.P.No.5241/2020, despite which liberty was granted to approach again. Clearly, the subsequent apprehending of Accused Nos.57, 58 and 59 and the filing of second charge sheet does not bring about any further incriminatory material as against the appellant herein. In fact, the second charge sheet points out to the role of Accused Nos.57, 58 and 59 in the conspiracy. Accordingly, the circumstances, the stage of investigation in the intervening time period between the first bail petition and the present one including the release of Accused Nos.29 and 34 are sufficient to make out a case for fresh consideration of the case of appellant.

104. The case of the appellant that he is entitled to be enlarged on bail on the principle of parity as Accused Nos.29, 34 and subsequently Accused No.35, requires consideration. It is to be noted that the imputation as regards the appellant (Accused No.23) is his presence in the mob, stone pelting on the fire extinguishing vehicle and participation in the commission of offence as regards which the Prosecution has relied upon the statements of CW-85, CW-86, CW-87 and CW-88.

105. The statements of CW-85, CW-86, CW-87 and CW-88, all of which were recorded on 10.09.2020, who have stated regarding the presence of appellant in the mob and have further stated that he was involved in stone pelting on the fire extinguishing vehicle. The delayed recording of statements of the Police personnel creates sufficient doubt regarding the veracity of statements, which cannot be brushed aside in the context of the present proceedings.

106. The nature of imputation against Accused No.35 is grave and to the effect that he had entered the office of respondent No.2 and set fire to his office as well as the house of respondent No.2 and to

the vehicles parked outside. The said Accused has been enlarged on bail in CrI.A.No.98/2021 while observing that he stood on par with Accused Nos.29 and 33. As on date, as per the chart containing the overt acts as reproduced at para - 75 above, it is clear that Accused Nos.29, 34, and 35, who were participants in the crime have been enlarged on bail. If it were that Accused No.29 was enlarged on bail and the imputation against him as per the chart indicated above supported by the statement of CW-10 that he had set fire to the house of respondent No.2 and the vehicles parked outside the house of respondent No.2, clearly, the appellant is also entitled to be enlarged on bail on an extension of the principle of parity considering the imputations against him.

107. It must also be noted that the other Accused with far serious imputations as is evident from the chart above including Accused Nos.34 and 35 being enlarged on bail, the appellant is entitled for a similar relief which would be in keeping with the consistent approach as regards the co-accused.

108. There is no recovery from the appellant. Taking note of the period of detention and the discussion made above, clearly, case is made out for appellant being enlarged on bail.

109. The learned Sessions Judge has also rejected the application on the only ground that the bail application of co-accused has been rejected, that the successive bail application could be filed only on demonstration of changed circumstances and though charge sheet and supplementary charge sheet were filed as regards the Accused, there were no change in circumstances, as the subsequent charge sheet related to the other Accused. The consideration by learned Sessions Judge is neither sufficient nor satisfactory. The discussion is cryptic and there is no analysis as to why the release of co-accused cannot be urged as a ground of parity. The trial Court ought to have applied its mind by discussing the circumstances and allegations of the present appellant vis-à-vis other accused who have been enlarged on bail. Accordingly, the appellant deserves to be enlarged on bail.

110. The appellant has been in custody since 19.08.2020. The respondent - State while filing the charge sheet has relied upon the statements of CW-2 (recorded on 18.08.2020), CW-11 (recorded on 28.08.2020), CW-16 (recorded on 28.08.2020), CW-27 (recorded on 07.09.2020), CW-31 (recorded on 13.09.2020), CW-29 (recorded on 13.09.2020) which when read together make out a case that the appellant was a part of the mob which had set fire to the house of respondent No.2 and the vehicles parked outside.

111. Though the material in the nature of statement of witnesses would point out to the involvement of appellant in the commission of crime, it is to be noted that there has been considerable delay in the recording of statement of witnesses, while the incident is stated to have occurred on 11.08.2020, the relevant dates on which the statements have been recorded are as follows:

CW - 11	28.08.2020
CW - 16	28.08.2020
CW - 27	07.09.2020
CW - 29	13.09.2020
CW - 31	13.09.2020

112. The delay is an aspect that may have to be taken note of vis-à-vis weightage to be given to the statement of witnesses at the stage of consideration of bail application.

113. It also needs to be noted that the earliest of the statement recorded on 18.08.2020 under Section 161 of Cr.P.C. is that of CW-2 who is stated to be the brother of respondent No.2 and the Case Diary does not reflect the statement of CW-2 which comes out from the observations at para-40 of the order of learned Sessions Judge, while considering the bail petition. Such aspect, if taken note of, would result in a beneficial conclusion in favour of the appellant in the present proceedings.

114. In light of the discussion made above and also taking note of the weightage to be assigned to the statement of CW-2, in light of the discrepancy in the Case Diary as pointed out above, case is made out for enlarging the appellant on bail.

115. It is also to be noted that the learned Sessions Judge has specifically opined at para-67 of the impugned order that the appellant had no intention to abscond, that there was no incriminating substance seized from his possession, that there are no criminal antecedents as regards the appellant as noted in para-76 of the impugned order, all of which need to be taken note of.

116. By taking note of the findings in paras-77 and 78 of the impugned order, it could also be construed that the Sessions Court has recorded a finding in the affirmative regarding the lack of possibility of the appellant tampering with the witnesses or with the respondent No.2.

117. The learned Sessions Judge after recording such observations has rejected the bail petition by merely observing at page-81 of the impugned order at para (i) that alongwith the individual interest of the Accused, societal interests is also involved in view of the nature of alleged offences involving communal clashes and attack of Police Station. Such sweeping observations without properly appreciating the incriminating material as against the appellant by the learned Sessions Judge, is to be found fault with. In fact, the present case as made out against the appellant is definitely not one of setting fire to the Police Station which relates to another set of Accused and is not the subject-matter of the present batch of appeals and accordingly, the observations of the learned Sessions Judge as noticed above are clearly perverse.

118. It must be noted that it is the totality of all circumstances as noted in the judgment of Arnab Manoranjan Goswami (supra) that needs to be taken note of and in the present case, giving sole overriding weightage to the nature of offences may not be justified. The impugned order rejecting bail to the appellant while concluding that he is not likely to abscond, there is no possibility of tampering with the witnesses or respondent No.2, that respondent No.2 who is a Member of Legislative Assembly is powerful enough, that there are no criminal antecedents and ignoring all such findings, only on the basis of seriousness of the offences, is liable to be set aside. Giving sole weightage to the gravity of offence would amount to in the words of Apex Court as 'recalibrating the scales of justice' in the case of Sanjay Chandra v. Central Bureau of Investigation reported in (2012) 1 SCC 40.



119. The appellant is also entitled to be enlarged on bail on the principle of parity. Insofar as Accused No.35, who has been enlarged on bail as per the order passed in Crl.A.No.98/2021 disposed off on 30.03.2021, the imputation against Accused No.35 was that he had entered into the office of Member of Legislative Assembly, i.e. respondent No.2 and had set fire to his office as well as to his house and to the vehicles parked outside the house of Member of Legislative Assembly. This imputation was supported by the statements of CW-11, CW-16 and CW-19.

120. This Court while granting bail to Accused No.35 had also observed that the said Accused was similarly placed as that of Accused Nos.29 and 33. Even as regards Accused No.29, the Court by a detailed order in Crl.A.No.1318/2020 dated 02.02.2021 had enlarged the said Accused on bail. In fact, the imputation against the said Accused was that he had set fire to the house of M.L.A and to the motorcycles and cars parked outside the house of M.L.A. Accused No.34 was also granted bail vide order dated 19.03.2021 in Crl.A.No.371/2021 and the allegation against the said Accused was that he was a part of the mob who entered the first floor and started throwing out the household items and set fire at it and that further, he had set fire to the vehicles parked outside the second respondent's house.

121. In light of bail being granted to Accused Nos.29, 34 and 35 as noticed above and looking into the nature of allegations against the said Accused, it could be stated that the present appellant is also entitled to be enlarged on bail, as the imputations against him are no graver than those made against the Accused Nos.29, 34 and 35.

122. The said appellant is in custody since 18.08.2020. The appellant has filed his first bail petition in Crl.Misc.No.5534/2020 which came to be disposed off on 15.10.2020. It is relevant to note that the order passed does not make any reference to the charge sheet filed as is evident from the observation at para-17 of the order.

123. The second bail petition filed in Crl.Misc.No.7295/2020 is disposed off on 15.12.2020 without adverting to the merits of the matter and by only observing that in the order dated 05.11.2020 passed in Crl.P.No.4606/2020, the Court had cautioned that the discretion for grant of bail must be exercised cautiously while considering the bail petitions of the nature being dealt with. The learned Sessions Judge had also referred to the observations made in the above criminal petition to the effect that the bail, if granted, at the relevant stage, further investigation would not see the smooth completion.

124. It is relevant to note that Crl.Misc.No.7295/2020 came to be disposed off on 15.12.2020 and as on such date, investigation in its entirety was still not complete and the second charge sheet came to be filed only on 05.01.2021. In fact, Accused Nos.57, 59, 60 and 61 were absconding even after the first charge sheet was filed and subsequently on their arrest and further investigation, the second charge sheet was filed only on 05.01.2021, which was subsequent to the disposal of Crl.Misc.No.7295/2020.

125. In fact, the Court while disposing of Crl.Misc.No.7295/2020 had noted that the investigation was still not complete. It must be noted that Crl.Misc.No.2554/2021 came to be filed on 10.03.2021

after substantial completion of investigation and filing of second charge sheet and such completion of investigation without any further incriminatory material being put forth as against the appellant could be a subsequent stage in the proceedings entitling the appellant to approach the Court seeking for reconsideration of his bail petition.

126. It needs to be kept in mind that CrI.Misc.No. 7295/2020 was disposed off on 15.12.2020, though after filing of charge sheet, but without assigning any reasons, while merely taking note of the caution expressed in CrI.P.No.4606/2020, while observing that the investigation was in progress. Accordingly, it cannot be stated that the disposal of CrI.Misc.No.7295/2020 would bar the filing of CrI.Misc.No.2554/2021 after substantial completion of the investigation.

127. Though another Criminal Miscellaneous Petition was filed subsequent to the disposal of CrI.Misc.No.2554/2021, the same came to be withdrawn as on the date of hearing of the appeal.

128. The statements recorded and relied upon by the Prosecution are as follows:

CW-8 - statement recorded on 02.09.2020 imputing that he was a part of the mob which had attacked the witnesses' house by stone pelting.

CW-85 (recorded on 10.09.2020), CW-86 (recorded on 10.09.2020), CW-98 (recorded on 11.09.2020) and CW-99 (recorded on 11.08.2020) - which merely state regarding the arrest of present appellant.

Hence, in effect, it is only the statement of CW-8 recorded with considerable delay only on 02.09.2020, which speaks of the involvement of appellant. In the absence of any specific identification or C.C. TV footage to corroborate with the statement of CW-8, it cannot be stated that the material on record makes out a prima facie case of involvement of the appellant.

129. The learned Sessions Judge has rejected the petition while observing that it was a successive bail petition, that the earlier petition i.e., CrI.Misc.No.7295/2020 was rejected at a point in time where charge sheet and subsequent charge sheet were already filed, that the release of co-accused subsequent to the disposal of earlier bail petition could not be taken note of, as the Court had observed that the order enlarging the Accused on bail would not be applicable to the other Accused, that the gravity of offence does not warrant release of the appellant.

130. However, it needs to be noted that the order disposing of CrI.Mis.No.5534/2020 on 15.10.2020 was at the time when investigation was still in progress, even when CrI.Misc.No.7295/2020 was disposed off on 15.12.2020, though the first charge sheet was filed, it was the stand of Prosecution as reflected in Para 12 of the order that further investigation was in progress. In fact, the second charge sheet came to be filed on 05.01.2021. The Accused No.29 was enlarged on bail by a detailed considered order in CrI.A.No.1318/2020 vide order dated 02.09.2021, Accused No.34 was released as per order dated 19.03.2021 in CrI.A.No.371/2021, Accused No.35 was enlarged on bail as per the order dated 30.03.2021 in CrI.A.No.98/2021. Such orders having been passed subsequent to the order in CrI.Mis.No.7295/2020 dated 15.12.2020, the petition filed in CrI.Mis.2554/2021 disposed

off on 10.03.2021 after enlargement of Accused No.29 on bail could be stated to be a subsequent development entitling reconsideration of the application for enlargement on bail.

131. As stated above, even after substantial investigation is concluded with no further incriminatory material against the appellant having been put forth in the subsequent charge sheet, the appellants have made out a case for being enlarged on bail.

132. Even on the ground of parity, in light of enlargement of Accused No.29 on bail, as regards whom serious allegations were made supported by the statement of witnesses imputing that the said Accused had set fire to vehicles outside the second respondent's house and set fire to the house of second respondent, the present appellant is in a position entitling him to be treated on par with Accused No.29 and to be enlarged on bail on the principle of parity.

133. Taking note that the appellant has no other antecedents, that he is in custody since 18.08.2020, that investigation is complete, that Accused No.29 and subsequently Accused Nos.34 and 35, who are similarly situated have been enlarged on bail, case is made out for grant of bail to the appellant as well.

134. In the result, the appeals are allowed. The appellants are released on bail subject to conditions. Hence, the following:

#### ORDER

(i) The order dated 17.11.2020 passed by I/C LXX Addl. City Civil & Sessions Judge, Bengaluru City (CCH-71) in CrI.Misc.No.6093/2020, is set aside.

(ii) The order dated 23.02.2021 passed by LXX Addl.

City Civil & Sessions Judge & Special Judge, Bengaluru (CCH-71) in CrI.Misc.1551/2021, is set aside.

(iii) The order dated 24.03.2021 passed by LXX Addl. City Civil & Sessions Judge & Special Judge, Bengaluru (CCH-71) in Spl.C.No.744/2020, is set aside.

(iv) The order dated 25.03.2021 passed by LXX Addl. City Civil & Sessions Judge & Special Judge, Bengaluru (CCH-71) in CrI.Misc.No.2554/2021, is set aside.

The appellants in all the appeals are enlarged on bail, subject to the following conditions:-

i. The appellants are ordered to be enlarged on bail on furnishing bond in a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for the likesum to the satisfaction of the trial Court.

ii. They shall regularly appear before the Court as and when required.

iii. They shall not threaten the prosecution witnesses and shall not tamper with the prosecution evidence in whatsoever manner.

iv. They shall not involve themselves in the offence of like nature.

Any observation made herein shall not be taken as an expression of opinion on the merits of the case.

Sd/-

JUDGE VGR