

Sri K.S. Manjunath @ Santro Ravi vs The State Of Karnataka on 1 September, 2023

Author: Shivashankar Amarannavar

Bench: Shivashankar Amarannavar

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE Mr. JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL APPEAL No. 1029/2023

C/W

CRIMINAL APPEAL No.1135/2023

CRL A No.1029/2023:

BETWEEN :

SRI K S MANJUNATH @ SANTRO RAVI
SON OF LATE SIDDA SHETTY
AGED ABOUT 51 YEARS
No.1191, GHOKALE ROAD
BEML LAYOUT
RAJARAJESHWARINAGAR
BENGALURU - 560 098.

PERMANENT R/AT
KALENAHALLI, KASABAHOBOLI
MANDYA DISTRICT - 571 401.

... APPELLANT

(BY SRI N RAVINDRANATH KAMAL, SENIOR COUNSEL FOR
SRI RAMAPRASAD S N, ADVOCATE)

AND :

1. THE STATE OF KARNATAKA
BY VIJAYANAGAR POLICE

STATION, MYSORE.

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REPRESENTED BY STATION
HOUSE OFFICER.
REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
BENGALURU - 560 001.

2. SMT. RASHMI D R
D/O DASAPPA
AGED ABOUT 27 YEARS
R/AT. No.610, 13TH MAIN
14TH CROSS, 'B' BLOCK
3RD STAGE, VIJAYANAGAR
MYSORE - 570 017.
3. CRIMINAL INVESTIGATION
DEPARTMENT, FINANCIAL
INTELLIGENCE UNIT, CID
BENGALURU, CARLTON HOUSE
BENGALURU - 560 001
REPRESENTED BY ITS
DEPUTY SUPERINTENDENT
REPRESENTED BY SPL. P.P.

... RESPONDENTS

(BY B A BELLIAPPA SPP-I AND
SRI RENUKARADHYA R D, HCGP FOR R1 AND R3
SRI D C SRINIVASA, ADVOCATE FOR R2)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION
14(A)(2) OF SC/ST (POA) ACT PRAYING TO ALLOW THE ABOVE
APPEAL AND THE ORDER OF THE HON'BLE 6TH ADDITIONAL
DISTRICT AND SPECIAL JUDGE, MYSORE IN REJECTING THE
BAIL APPLICATION FILED BY THE APPELLANT HEREIN SPECIAL
CASE No.239/2023 (CR.No.1/23 OF VIJAYANAGAR POLICE
STATION DATED 19.5.2023 REGISTERED FOR THE OFFENCE
PUNISHABLE UNDER SECTIONS 120(B), 201, 204, 212, 270,
313, 323, 376, 420, 504, 506, 498(A) R/W SECTION 34 OF IPC

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AND SECTION 3 AND 4 OF THE DOWRY PROHIBITION ACT AND
UNDER SECTIONS 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(2)(v)(va) OF
THE SC/ST (POA) AMENDMENT ORDINANCE 2014 MAY BE SET

ASIDE AND THE APPELLANT MAY BE ORDERS TO BE RELEASED
ON BAIL ON SUCH CONDITIONS AS THE HON'BLE COURT
DEEMS FIT IN THE CIRCUMSTANCES OF THE CASE.

CRL A No.1135/2023:

BETWEEN :

SRI MADHUSUDAN G S
S/O L SATHISH
AGED 37 YEARS
HOUSE No.575, 4TH STAGE
VIJAYANAGAR
MYSORE - 570 017.

...APPELLANT

(BY SRI N RAVINDRANATH KAMAL, SENIOR COUNSEL
SRI RAMAPRASAD S N, ADVOCATE)

AND :

1. THE STATE OF KARNATAKA
BY VIJAYANAGAR POLICE
STATION, MYSORE.
REPRESENTED BY STATION
HOUSE OFFICE
REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
BENGALURU - 560 001.
2. SMT. RASHMI D R
W/O MANJUNATH K S
AGED ABOUT 27 YEARS
R/AT. No.610, 13TH MAIN
14TH CROSS, 'B' BLOCK

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3RD STAGE, VIJAYANAGAR
MYSORE - 570 017.

3. CRIMINAL INVESTIGATION
DEPARTMENT, FINANCIAL
INTELLIGENCE UNIT, CID
BENGALURU, CARLTON HOUSE
BENGALURU - 560 001
REPRESENTED BY ITS
DEPUTY SUPERINTENDENT
REPRESENTED BY SPL. P.P

...RESPONDENTS

(BY B A BELLIAPPA SPP-I AND
SRI RENUKARADHYA R D, HCGP FOR R1 AND R3
SRI D C SRINIVASA, ADVOCATE FOR R2)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 14(A)(2) OF SC/ST (POA) ACT, 2015 PRAYING TO ALLOW THE ABOVE APPEAL AND SET ASIDE THE ORDER OF THE HON'BLE 6TH ADDITIONAL DISTRICT AND SPECIAL JUDGE, MYSORE IN REJECTING THE BAIL APPLICATION FILED BY THE APPELLANT HEREIN SPECIAL CASE No.239/2023 CR.No.1/2023 FOR VIJAYA NAGAR POLICE STATION DATED 19.05.2023 REGISTERED FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 120(B), 201, 204, 212, 270, 313, 323, 376, 420, 498(A) 504, 506, R/W SECTION 34 OF IPC AND SECTION 3 AND 4 OF THE DOWRY PROHIBITION ACT AND UNDER SECTIONS 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(2)(v)(va) OF THE SC/ST (POA) ACT 2014 MAY BE SET ASIDE AND THE APPELLANT MAY BE ORDERED TO BE RELEASED ON BAIL ON SUCH CONDITIONS AS THIS HON'BLE COURT DEEMS FIT IN THE CIRCUMSTANCES OF THE CASE.

THESE CRIMINAL APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT THIS DAY, SHIVASHANKAR AMARANNAVAR J, DELIVERED THE FOLLOWING:

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JUDGMENT

Crl.A. No. 1029/2023 is filed by accused No. 1 seeking to set aside the order dated 19.05.2023 passed in Spl.C. No. 239/2023 by the VI Additional District and Special Judge, Mysuru whereunder the bail application filed by appellant - accused No. 1 sought in respect of crime No. 1/2023 of Vijayanagar Police Station for offence punishable under Sections 120-B, 201, 204, 212, 270, 313, 323, 376, 420, 504, 506, 498-A read with Section 34 of IPC, Sections 3 and 4 of Dowry Prohibition Act, 1961 and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(2)(v) and 3(2)(v-a) of SC ST (Prevention of Atrocities) Act, 1989 came to be rejected.

2. Crl.A. No. 1135/2023 is filed by appellant - accused No. 2 seeking to set aside the order dated 19.05.2023 passed in Spl.C. No. 239/2023 by the VI Additional District and Special Judge, Mysuru whereunder the bail application of appellant - accused No. 2 sought in respect of crime No. 1/2023 of Vijayanagara Police Station for the offence punishable under Sections 120-B, 201, 204, 212, 270, 313, 323, 376, 420, 498-A, 504, 506 read with Section 34 of IPC, Sections 3 and 4 of the Dowry Prohibition Act, 1961 and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(2)(v) and 3(2)(v-a) of SC ST (Prevention of Atrocities) Act, 1989 came to be rejected.

3. Heard learned Senior counsel for appellants in both the appeals, learned HCGP for respondent No.1 and learned counsel for respondent No. 2.

4. The victim girl has filed a complaint stating that she is a native of Mysuru and she applied for a job in a financial company belonging to accused No.1 through an advertisement published in newspaper. She was called for interview, was selected and her salary was fixed at Rs.14,000/- per month. Thereafter there were certain interactions between accused No.1 and victim and on 07.03.2019 accused No.1 offered her juice at office. After drinking the juice, the victim fell unconscious and after getting conscious she came to know that she has been sexually assaulted. Accused No.1 threatened victim with dire consequences if she informed the said matter to Police or anybody else and also told that he has close contacts with the Police. The accused No.1 promised victim that he will marry her. The marriage of the victim and accused No.1 was fixed in the house of Shashibhushan, Advocate. The said fact was not known to the father of the victim and she was visiting the office of accused No.1 from her father's house as an employee.

5. The victim signed certain cheques at the instance of accused No.1 to get certain financial benefits as the victim belongs to Scheduled Caste, certain blank papers were also signed by her and her mother including some stamp papers. The victim has also alleged that she got sexual disease from accused No.1. The accused No.1 took 200 grams of gold ornaments belonging to victim. During January 2020 to March 2020, accused No.1 took victim to various hotels at Mysuru and had sexual intercourse with her and he has taken naked pictures and threatened her. In March 2020 in an apartment at Kuvempu Nagar, the victim and accused No.1 stayed together for three days a week and accused No.1 concealed the mobile of victim. Accused No.1 demanded dowry of Rs.10.00 lakhs, then the victim informed the said matter to her parents. Accused No.1 abused the father of the victim using caste name. During August 2020 the victim came to know that she is pregnant. Thereafter, the victim was forced to go to her parent's house as accused No.1 told her that he is going to Bangalore. The victim informed her father about giving 4 cheques to accused No.1 and her cheque book and pass books are missing. On 24.08.2020 the victim lodged complaint at Devaraja Police Station. On 09.09.2020 the victim had undergone abortion at Shankar Nursing Home, Mysuru, as the child in her womb had not developed properly and she was infected with Herpes disease.

6. The victim further alleged that, accused No.1 contacted her and they stayed in various hotels at Mysuru till November 2021. From 22.11.2021 the accused No.1 and victim stayed together in an apartment at Sheshadipuram, Bangalore and the victim became pregnant for the second time. Accused No.1 forcefully got her aborted at Trinity Hospital, Sheshadripuram. The accused No.1 used to take the victim to all the programs organized by important persons. Accused No.1 abused the victim and harassed her physically. Thereafter, accused No.1 took the victim to Mysuru and took rental house at Dattagalli. Accused No.2 - Madhusudhan who is the office boy in the office of accused No.1 has joined in the house as house keeper. The victim forced accused No.1 to register the marriage, but accused No.1 was not interested in the registration of the marriage. Accused No.1 destroyed the bond paper signed by her mother. On 17.10.2022 accused No.1 threatened the victim to have sexual contacts with the officers who are involved in Government Servants transferable activities. But the victim did not agree for the same and she stayed away from accused No.1.

7. On 26.11.2022 accused No.1 came to the house of the victim and told her that his mother has suffered heart attack and he wants to close the relationship with her. Accused No.1 came in an Innova car and four Police personnel came to her house and herself and her sister were forcefully taken to Cottonpet Police Station, Bangalore and then were taken to Women Welfare Centre. On 27.11.2022 during enquiry she came to know that accused No.1 has criminal background. On 29.11.2022 the victim was detained at Parappana Agrahara jail. On 13.12.2022 between 03.30 to 04.00 pm accused No.1 visited her and threatened her. On 19.12.2022 accused No.1 called the father of the victim and threatened about filing a case against victim. The victim further alleged that, accused No.1 is a married man and he has suppressed the same and married her and he has got sexual disease and that she also has got the same.

8. Said complaint came to be registered in crime No. 1/2023 of Vijayanagara Police Station arraigning the appellants as accused for the offence punishable under Sections 506, 498-A, 504, 376, 270, 313, 323 of IPC, Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), and 3(2)(v) of SC ST (Prevention of Atrocities) Act, 1989 and Sections 3 and 4 of Dowry Prohibition Act. After investigation charge sheet came to be filed against the appellants and two others for the offence under Sections 120-B, 201, 204, 212, 270, 313, 323, 376, 420, 498-A, 504, 506 read with Section 34 of IPC, Sections 3 and 4 of Dowry Prohibition Act and Sections 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(2)(v) and 3(2)(v-a) of SC ST (Prevention of Atrocities) Act, 1989. The appellants who are arrested and are in judicial custody have filed bail applications in the case registered against them in S.C. No. 239/2023 and they came to be rejected by the impugned orders dated 19.05.2023 which are challenged in these appeals.

9. Learned Senior counsel appearing for the appellants in both the appeals would contend that accused No. 1 is a journalist, human rights activist in Mysuru and he used to conduct seminars. There is rivalry by NGO called Odanadi Samsthe as the appellant made efforts for protection of women. The associate of accused No. 1 filed writ of habeas corpus against the said Odanadi Samsthe and its office bearers and exposed them. In view of the same, the grant accorded to them came to be withdrawn. Said Odanadi Samsthe filed writ petition challenging the withdrawal of the grant. A complaint came to be filed by one Sri. Prakash against the complainant and her sister for offence under Section 397 of IPC registered in crime No. 171/2022 and in that the complainant and her sister were arrested and they filed Crl.Misc. No. 11811/2022 under Section 439 of Cr.P.C. seeking bail and in one of the grounds in that petition the complainant has stated that she is in live-in relationship with accused No. 1. Said averment itself shows that the averment made in the complaint that she married accused No. 1 is false. The complainant and her mother have borrowed Rs.5,00,000/- (Rupees Five Lakhs only) each from accused No. 1 and executed consideration receipt dated 13.05.2019 and it is after the alleged marriage on 09.05.2019. Accused No. 1 has filed a private complaint against the complainant for offence under Section 138 of Negotiable Instruments Act and a criminal case is registered against the complainant. Stanley - the office bearer of Odanadi Samsthe filed a complaint against this accused No. 1, his wife and another and it is registered in crime No. 32/2019 of Vijayanagar Police Station and case came to be registered in C.C. No. 1870/2020. Accused No.1 filed Criminal Revision Petition No. 282/2022 challenging the proceedings in the said criminal case and the said criminal case has been stayed by the revisional Court. Therefore, there is enmity between the office bearers of Odanadi Samsthe and accused No. 1. The complainant sent a message to accused No. 1 threatening him to withdraw the case. Therefore, accused No. 1 filed a

complaint to SC ST Commission on 21.12.2022 and also to Karnataka State Human Rights Commission and an order has been passed on the petition filed by this accused No. 1. Wife of accused No. 1 belongs to Schedule Caste and this accused No. 1 belongs to Madivala coming under Category II-A. As the accused No. 1 is married to a lady belonging to Schedule Caste there is no question of abusing the complainant taking her caste. In the records maintained regarding the abortion of the complainant at Poornima Hospital this complainant has been shown as wife of accused No. 1. The Investigating officer has filed B Report in the case registered against the complainant and her sister in crime No. 171/2022 and in that report accused No. 1 and the complainant are stated to be husband and wife and false case has been filed with the help of Sri. K.Y. Praveen, Police Inspector. Accused Nos. 3 and 4 have been granted bail in CrI.A. No. 302/2023.

10. The allegation against accused No. 2 is that he is the attendant of accused No. 1 and at the instance of accused No. 1 he gave juice mixed with sedatives to the complainant - victim girl and assisted accused No. 1 in committing crime against the victim girl. In the paper advertisement for employment the mobile number mentioned does not belong to accused No. 1 and there is no investigation in that regard as to whom the said mobile number belongs to. Learned Senior counsel has placed reliance on the following decisions stating that if there is live-in relationship there will be consent and it does not attract the offence as alleged against accused No.1 and they are;

i. Uday Vs. State of Karnataka, reported in 2003 AIR SCW 1035 ii. Ansaar Mohammad Vs. The State of Rajasthan and another, reported in 2022 Live Law (SC) iii. Tilak Raj Vs. State of Himachal Pradesh, reported in AIR 2016 SC 406

11. Learned Senior counsel further contends that accused No. 1 is not convicted in any of the cases registered against him. Accused No. 1 is not having any criminal antecedents. Accused No. 1 is ready to abide by any conditions to be imposed by this Court. With this he prayed to allow the appeals and grant bail to accused Nos. 1 and 2.

12. Per contra, learned Additional SPP appearing for respondent No. 1 - State would contend that the judgment relied upon by the learned Senior counsel for appellants does not apply to the case on hand as appellant No. 1 has committed the offence first and thereafter married the victim girl by giving threat to her. Accused No. 1 implicated the victim girl and her sister and got them arrested with the help of the Police Inspector who is now under suspension. The phone number mentioned in the advertisement is that of accused No. 2. There are proof for marriage of the victim girl with accused No. 1 and statements of the persons who attended the marriage, which took place in the house of an advocate, have been recorded. Accused No. 1 took signature of the victim girl on cheque book. Accused No. 1 abused the victim girl and her parents taking name of their caste. Accused No. 1 is very close with some of the Police Officers. Accused No. 1 asked the victim girl to sleep with officials in order to help accused No.1 to get transfer of Government officials who are acquainted with him. The victim girl, after grant of bail in the case registered against her, filed the complaint. If the accused are granted bail there is threat to victim girl and other prosecution witnesses as accused No. 1 is politically influential and has contact with Police officials. Accused No. 1 was in judicial custody for 11 months under GOONDA Act. Accused No.2 is attendant of accused No.1 and he gave juice containing sedatives to the victim girl and assisted accused No. 1 to commit the offence.

Considering all these aspects learned Special Judge has rightly rejected the bail applications of accused Nos. 1 and 2. with this he prayed to dismiss the appeals.

13. Learned counsel for respondent No. 2 would contend that there is no aid or grant by the Government to Odanadi Samsthe. In the B report filed in crime No. 171/2022 there is a mention regarding accused No. 1 being in the habit of filing false cases against girls who did not heed to his request for prostitution. Accused No.1 has been detained in judicial custody under GOONDA Act and in the report of the Police Inspector, Kuvempu Police station, Mysuru there is mention of 12 cases registered against accused No. 1. The office bearers of Odanadi Samsthe filed writ petition seeking quashing of the charge sheet in Spl.C. No. 42/2015 (crime No. 31/2014) on the complaint filed by accused No. 1 and the said writ petition came to be allowed. Accused No. 1 gave advertisement in the newspaper, copy of which is collected by the Investigating Officer and the statement of one Sri. Praveen has been recorded who has stated that accused No. 1 gave said advertisement. Medical certificate of the victim and the statement of the Doctor recorded by the Investigating Officer reveal that the victim had got herpes and so also accused No. 1. There is abortion of the victim two times in different hospitals and the Investigating Officer has collected documents in that regard. Said abortion is against the consent of the victim. Accused No.1 has abused the victim taking her caste and also sexually abused her which has been stated by the victim in her statement recorded under Section 164 Cr.P.C. The Investigating Officer has collected the marriage invitation card and photographs of marriage of victim with accused No. 1 and also recorded the statement of Sri. Shashibhushan in whose house the marriage took place. The statement of the Purohit who performed the marriage has also been recorded. The consideration receipts said to have been executed by the victim and her mother both are of the same date. The address of the victim girl in the PCR filed by accused No. 1 is wrongly stated. The victim has not given any instructions to the counsel who filed bail petition regarding her live-in relationship with accused No. 1. Accused No. 1 is in the habit of filing false cases. Accused No.1 sent the victim and her sister to judicial custody with the help of Police officials. On perusal of the entire charge sheet there is a prima facie case against accused Nos. 1 and 2 for the offence alleged against them. If the appellants - accused Nos. 1 and 2 are granted bail there is threat to the women folk. There is a threat to prosecution witnesses and to the victim if the appellants are granted bail. The appellants are habitual offenders and specifically accused No. 1 is politically influential having contacts with Police officials. With this he prayed to dismiss the appeal.

14. Having heard learned Senior counsel for appellants, learned counsel for respondent No. 2 and learned Additional SPP for respondent No.1 this Court has perused the impugned orders and charge sheet material and other documents produced by the parties.

15. The complainant has alleged sexual abuse, threat to upload her nude photographs in social media and abusing her by taking her caste. The complainant in her complaint dated 02.01.2023, in detail, has stated the acts of accused Nos.1 and 2. The statement of the victim girl has been recorded under Section 164 of Cr.P.C. wherein she has stated in detail the acts of appellants - accused Nos. 1 and 2 and they corroborate with the averments of the complaint. Sexual assault has been made on the complainant when she was unconscious after drinking the juice given by accused No.2 which was mixed with sedatives. Accused No. 2 is an office boy working under accused No. 1 in his office

and assisting accused No. 1 in all his activities. Accused No. 1 threatened the complainant of uploading her nude photographs in the social media and therefore, the complainant had agreed to the proposal of her marriage with accused No. 1. Accused No. 1 married the complainant in the house of one Shashibhushan, Advocate. The complainant has subsequently also been sexually abused by accused No. 1. Accused No.1 was infected with herpes. Due to the physical contact of accused with the complainant, she also got infected with herpes. The complainant when she had become pregnant was aborted twice against her consent. The complainant and her sister were got arrested at the instance of accused No.1 in a false case registered by one Sri. Prakash. In the said case, subsequently, the Investigating Officer filed B report and action has been initiated against the Police Officer for registering a false complaint against the complainant and her sister at the instance of accused No. 1. The Investigating Officer has collected all materials and recorded the statements of the witnesses to establish all these aspects. On perusal of the entire charge sheet material there is a prima facie case against the accused persons for the offence alleged against them.

16. The documents produced by the learned counsel for respondent No. 2 indicate that accused No.1 was detained under the GOONDA Act as at that time 12 crimes were registered against him. Said aspect indicates that accused No. 1 is having criminal antecedents. The B report filed in crime No. 171/2022 would reveal that accused No. 1 is in the habit of filing false complaints against girls who do not heed to his request for prostitution. It also indicates that accused No. 1 is having close contacts with Police officials. Accused No. 1 is politically influential and it is alleged that he is involved in getting transfers of Government servants with the use of his political influence. The victim girl is belonging to schedule caste.

17. The averments in the bail petition by the complainant in crime No. 171/2022 that she is in live-in relationship with accused No.1 is stated to be not as per her instructions. As accused No. 1 is having criminal antecedents, if he is granted bail, there is threat to complainant and other prosecution witnesses.

18. Accused No. 2 is attendant under accused No. 1 and all along he assisted accused No. 1 in all his activities including giving juice mixed with sedatives to the victim girl and enabled accused No.1 to commit the offence. If accused No. 2 is granted bail, with the instructions of accused No. 1, there are chances of he threatening the complainant and other prosecution witnesses.

19. The decision of the Hon'ble Apex Court in the case of Uday Vs. State of Karnataka, reported in 2003 AIR SCW 1035 relied on by the learned Senior counsel for the appellants, will not help the appellants as in that case consent was prior to the act of sexual intercourse. In the case on hand there was no consent prior to committing of the act of sexual assault and subsequent acts are by giving threat to the victim.

20. Another decision relied on by the learned Senior counsel for the appellants in the case of Ansaar Mohammad Vs. The State of Rajasthan and another, reported in 2022 Live Law (SC) 599, will not help the appellants as in that case the complainant willingly stayed with the accused and they had relationship. In the instant case the complainant did not willingly stayed with accused No. 1 and there was threat to her by accused No.1 of uploading her nude photographs in the social media.

21. Another decision relied on by the learned Senior counsel for the appellants in the case of Tilak Raj Vs. State of Himachal Pradesh, reported in AIR 2016 SC 406, does not help the accused as in that case sexual intercourse was on the false pretext of marriage. But, in the case on hand sexual intercourse was committed when the victim was unconscious and thereafter she was sexually abused by threatening to upload her nude photographs in the social media.

22. Accused No. 1 is politically influential, having criminal antecedents and there are chances of he committing offence if he is granted bail. The offences alleged against accused Nos. 1 and 2 are heinous and one of them is punishable with imprisonment for life. Considering all these aspects learned Special Judge has rightly rejected their bail petitions by the impugned orders. There are no grounds made out for setting aside the impugned order and grant bail to the appellants - accused Nos. 1 and 2.

In the result, both the appeals are dismissed.

Sd/-

JUDGE LRS.

CT-SM