

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 28<sup>TH</sup> DAY OF OCTOBER, 2022

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL APPEAL NO. 100476 OF 2022

CONNECTED WITH

CRIMINAL APPEAL NO.100485 OF 2022

**IN CRL. A. NO.100476/2022:**

**BETWEEN:**

GURUNAGOUDA @ GURUMURTHYGOUDA  
S/O. SOMASHEKHARAGOUDA POLICEPATIL  
AGE. 32 YEARS, OCC. AGRICULTURE,  
R/O. HOUSE NO. 38, WARD NO.1,  
BEHIND BSNL OFFICE, HULIYDER,  
TQ. KANAKAGIRI, DIST.KOPPAL,  
PIN-583283.

...PETITIONER

(BY SRI. T. R. PATIL, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
BY KANAKAGIRI POLICE,  
R/BY STATE PUBLIC PROSECUTOR,  
HIGH COURT OF KARNATAKA,  
BENCH DHARWAD,  
PIN - 580011.
2. KHADARABASHA S/O. MAMAMADSABA MALIGADDI  
AGED 30 YEARS, OCC. MASON,





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**C/w. CRL.A. No.100485 of 2022**

R/O. HULIYDER,  
TQ. KANAKAGIRI, DIST. KOPPAL 583283.

...RESPONDENTS

(BY SRI. PRASHANTH V. MOGALI, HCGP FOR R1  
R2 - SERVED)

**IN CRL. A. NO.100485/2022:**

**BETWEEN:**

SHIVASHANKRAPPA S/O. SHESHAPPA  
CHANNADASAR  
AGED: 43 YEARS, OCC: AGRICULTURE,  
R/O. WARD NO. 3 HULIYDER,  
TQ. KANAKAGIRI, DIST. KOPPAL,  
PIN-583283.

...PETITIONER

(BY SRI. T. R. PATIL, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
BY KANAKAGIRI POLICE,  
R/BY STATE PUBLIC PROSDCUTOR,  
HIGH COURT OF KARNATAKA,  
BENCH DHARWAD,  
PIN-580011.



...RESPONDENT

(BY SRI. PRASHANTH V. MOGALI, HCGP FOR R1  
R2 - SERVED)



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**C/w. CRL.A. No.100485 of 2022**

THESE CRIMINAL APPEALS ARE FILED U/S 14A(2) OF SC AND ST (POA) ACT, SEEKING TO SET ASIDE THE ORDER DATED 22.09.2022 AND ALLOW THE APPEALS, IN FIR SC/ST NO.535/2022 (ARISING OUT OF KANAKAGIRI PS CRIME NO.84/2022) PENDING ON THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, AT KOPPAL AND PLEASE RELEASED THE APPELLANTS/ACCUSED NOS.29 AND 31 ON BAIL, THE OFFENCES PUNISHABLE U/S 143, 147, 148, 323, 324, 307, 302, 504, 506, R/W SECTION 149 OF IPC AND U/S 3(2)(v) OF SCHEDULED CASTES AND SCHEDULED TRIBES (PREVENTION OF ATROCITIES ACT) AMENDMENT BILL-2015, IN THE ABOVE CASES.

THESE CRIMINAL APPEALS ARE COMING ON FOR ORDERS, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

**JUDGMENT**

Criminal Appeal No.100476/2022 is filed by accused No.29 and Criminal Appeal No.100485/2022 is filed by accused No.31. In both the appeals the appellants have challenged the order dated 22.09.2022 passed by the Principal District and Sessions Judge, Koppal, rejecting their



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bail applications sought in Crime No.84/2022 of Kanakagiri Police Station registered for the offences punishable Sections 143, 147, 148, 323, 324, 307, 302, 504, 506 read with Section 149 of the Indian Penal Code (hereinafter referred to as 'IPC', for brevity) and under Sections 3(2)(v) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'SC & ST (POA) Act', for brevity).

3. Heard learned counsel for the appellants and learned High Court Government Pleader for respondent No.1-State. In spite of service of notice, respondent No.2 remained absent and unrepresented.

4. The case of the prosecution is that, on 11.08.2022 one Khadarabasha S/o. Mamamadsaba Maligaddi resident of Hulyder, Taluk Kanakagiri,



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District Koppal has filed the complaint stating that on 11.08.2022 at about 9.00 a.m., accused persons assaulted the complainant's brother Pashavali near Hussainabasah Nadukal Darga with rod, stick and stones and when the complainant and his friend Sanna Hanumantha came to rescue his brother, accused persons murdered his brother by assaulting with rod, stick and stones and also abused Sanna Hanumantha touching his caste and named 28 persons who have committed the said act. The said complaint came to be registered against accused Nos.1 to 28 in Crime No.84/2022 of Kanakagiri Police Station for the aforesaid offences. The appellants/accused Nos.29 and 31 came to be arrested on 12.08.2022 and they are in judicial custody. The appellants/accused Nos.29 and 31 have filed bail applications and the same came to be rejected by the Principal District and Sessions Judge, Koppal by order dated 22.09.2022.



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The said order has been challenged in the instant appeals.

5. Learned counsel for the appellants would contend that the name of these appellants are not mentioned in the complaint and FIR. As per remand application there is only accusation that these appellants instigated other accused to commit offence. It is his further submission that appellant/accused No.29 has attended the Civil Judge and JMFC Court, Gangavathi in C.C. No.203/2018 and he was not present on the spot at the time of alleged incident. It is his further submission that the wife of appellant/accused No.29 is pregnant and her due date of delivery is 06.11.2022 and the marriage of this appellant/accused No.29 is love marriage and therefore the presence of the appellant/accused No.29 is required to take care of his wife. It is his



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further submission that without considering all these aspects, learned Sessions Judge has passed the impugned order, which requires interference by this Court. With this, he prayed to allow the appeals and to grant bail to the appellants/accused Nos.29 and 31.

6. *Per contra*, learned High Court Government Pleader would contend that the investigation is in progress. The Investigating Officer has collected CCTV footage wherein, the presence of persons involved in the alleged offence is recorded. It is his further submission that there is a clash between two groups and there is a murder of one person each in each group, there is disturbance in the village and damage to the property of the village and the property of individual. If the appellants are granted bail there are chances of again disturbance in the village.



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Considering all these aspects, learned Sessions Judge has passed the impugned order, which does not required any interference by this Court. With this, he prayed to dismiss the appeals.

7. Having regard to the submissions made by learned counsel for the appellants and learned High Court Government Pleader, this Court has gone through the complaint, FIR, remand applications, the impugned order and also the investigation papers made available by learned High Court Government Pleader.

8. The learned Sessions Judge referring to the objections filed by the prosecution has noted that in the year 2018 one Jagadish had damaged the Valmiki statue near main road of Gangavathi-Tavaragera and there was discussion to install Valmiki statue and they wanted to install near





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panchayath office prior to Moharam festival. One Sanna Hanumantha had objected for the same by saying that, it is a busy area and it is necessary to install the statue of Lord Buddha, Basava and Ambedkar and because of that, the officials have stopped the installation of the statue. Because of this incident there is ill will between the community in the village. 10-12 days prior to the Moharam festival one Parashuram Talavar of Valmiki community was loving one Shamidabi, who is Muslim girl and brought to his home and thereafter, there was panchayath and the girl and Parashuram Talavar, who are handed over to their families. However, that girl came with Parashuram Talavar and there are 2-3 such in incident occurred in the village and it was also disturbance in the village. Because of that incident, there was quarrel between two groups and they have murdered one Yankappa in that incident and



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assaulted the relatives of the deceased. Learned Sessions Judge has perused the CCTV footage and observed that both groups were enraged and they were holding stones and there are CCTV footage that Yankappa Talavar and Pashavali were taken. Learned Sessions Judge has also observed that CCTV footage shows the involvement of accused Nos.1, 2, 3, 7, 8, 11, 17, 20, 22, 27, 28, 29, 31, 32, 33, 34, 37 and 38. Learned Sessions Judge has also observed in the impugned order that the place in which the incident occurred and damage caused in the village shows that there is a clash between two groups and further observed that there is murder of each person in each group. There is not only damage to the public property but also damage to the private property. The Trial Court has also observed that if the appellants/accused Nos.29 and 31 are released on bail, they may cause further disturbance in the



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village. The Court has also observed that for the safety of the society it is just and necessary to keep the accused in jail, as the village is now coming into control and there is a heat of incident in the village. The presence of these appellants/accused Nos.29 and 31 is revealed from the investigation papers. What is their exact role, is a matter of investigation and final report. Merely because the appellant/accused No.29 attended a criminal case in the Court at Gangavathi situated at the distance of 40 k.m. from the place of incident, at this stage it cannot be said that on the date of incident he was not present on the spot. Merely because the wife of appellant/accused No.29 is pregnant and her due date of delivery is 06.11.2022 as per medical records, is not a ground for grant of bail at this stage when the investigation is in progress. Considering all the above aspects, learned



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Sessions Judge has rightly rejected the bail applications of the appellants/accused Nos.29 and 31 by the impugned order dated 22.09.2022. There are no grounds for setting aside the impugned order and granting bail to the appellants/accused Nos.29 and 31. Hence, both the appeals are dismissed.

**Sd/-**  
**JUDGE**

SMM