

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5TH DAY OF DECEMBER 2000

BEFORE :

THE HON'BLE MR.JUSTICE G.PATRI BASAVANA GOUD

CRIMINAL PETITION No.2902/2000 C/W.

CRIMINAL PETITION No.2901/2000

Crl.P.No.2902/2000 :

Between :

1. Basawaraj,  
S/o Bapu Katabau,  
Major, Occ: Business  
& Coolie, R/o Atiwal,  
Taluk Humnabad,  
Bidar District.
2. Shivaji,  
S/o Anneppa, Major,  
Occ: Business & Coolie,  
R/o -do-.
3. Raju,  
S/o Chandrasha,  
Major, All -do-.
4. Sadashiv,  
S/o Vithal, major,  
All -do-.
5. Dattur,  
S/o Maruthi, Major,  
All -do-.

.. Petitioners

( By Sri R.B.Deshpande, Advocate )

And :

The State of Karnataka  
by Bagdal Police.

.. Respondent

( By Sri Bhavani Singh, HCGP )



Crl.P.No.2902/2000 C/w.  
Crl.P.No.2901/2000

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Crl.P.No.2901/2000

Between :

Syed Ismail,  
S/o Syed Shamshad,  
Major, Occ: Agriculture,  
R/o Atiwal,  
Tq: Humnabad,  
Bidar District. ... Petitioner

( By Sri R.B.Deshpande, Advocate )

And :

The State of Karnataka  
by Bagdal Police. ... Respondent

( By Sri Bhavani Singh, HCGP )

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The Criminal Petition No.2902/2000 is  
filed under Section 439 Cr.P.C. praying to  
enlarge the petitioners on bail in Crime  
No.79/2000 of Bagdal Police Station.

The Criminal Petition No.2901/2000 is  
filed under Section 438 Cr.P.C., praying to  
enlarge the petitioner on bail in the event of  
his arrest in Crime No.79/2000 of Bagdal Police  
Station.

These Criminal Petitions coming on for  
orders this day, the Court made the following :

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ORDER

Even according to what the deceased's wife said in her complaint, there had been a dispute between the deceased and the petitioners, all fishermen, with regard to the place at which each one had to operate. It is in that regard that the alleged incident is stated to have taken place, and as per the eye witness account, it is the Basavaraj-first petitioner in Criminal Petition No.2902/2000 who hit Ganapathi with club on the head, and as prima facie made out from the post mortem report, it is that hit that caused the death of Ganapathi. Even from the eye witness account, the overt acts attributed to other petitioners in Criminal Petition No.2902/2000 cannot be said to be such as are aimed at causing the death of Ganapathi and the incident having occurred while they were quarrelling in respect of place at which they had to operate while fishing, even with the aid of Section 149 Cr.P.C., I am of the opinion that, these other petitioners may not be possible to be

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roped in for what Basavaraj did in causing the death of Ganapathi. So far as the petitioner in Criminal Petition No.2901/2000 is concerned, even the overt acts as attributed to other petitioners, that is, petitioners other than Basavaraj in Criminal Petition No.2902/2000, are not even alleged as against this petitioner-Syed Ismail. In the circumstances, the following order is passed :

Criminal Petition No.2902/2000 is dismissed so far as the first petitioner-Basavaraj is concerned, and is allowed so far as other four petitioners-Shivaji, Raju, Sadashiv and Dattu are concerned, and the said Shivaji, Raju, Sadashiv and Dattu are granted bail on each of them executing personal bond for Rs.10,000/- (Rupees Ten thousand only) with one surety each for like sum to the satisfaction of the learned Jurisdictional Magistrate/learned Sessions Judge as the case may be depending upon



where the case is pending, subject to the condition that they should not tamper with the prosecution witnesses.

Criminal Petition No.2901/2000 is allowed. Petitioner therein-Syed Ismail in the event of he being arrested in connection with Crime No.79/2000 of Bagdal Police Station, shall be released on bail on his executing personal bond for Rs.10,000/- (Rupees Ten thousand only) with one surety for like sum to the satisfaction of the police officer effecting arrest, subject to the following conditions :

(1) The said Syed Ismail shall make himself available for the purpose of interrogation as and when required by the Investigating Officer.

(2) He shall not tamper with the prosecution witnesses.



Crl.P.No.2902/2000 C/w.  
Crl.P.No.2901/2000

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(3) Within one month from the date he is so arrested and released in pursuance of this order, he shall file a regular bail application before the Court concerned, and the benefits of this order shall enure to him only until the said regular bail application is heard and disposed of.

**Sd/- JUDGE**

Bk/