

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF JANUARY 2022

BEFORE

THE HON'BLE MRS. JUSTICE K.S. MUDAGAL

CRIMINAL APPEAL No.1747/2021

BETWEEN:

1. SHIVAKUMAR H R
S/O H S RUDRAPPA
AGED ABOUT 42 YEARS
R/AT BEHIND VANDAHANA TALKIES
KUMABARA STREET
SHIVAMOGGA-577 201.
 2. NUTHAN MOOLYA
S/O KAVITHA V
AGED ABOUT 35 YEARS
R/AT NO.4 VAISHNAVI LAYOUT
CHAMUNDIPURA KOHALLI
SHIVAMOGGA-577 201.
- ...APPELLANTS

(BY SRI S Y KUMBAR, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY SUB INSPECTOR OF POLICE
DODDAPETE POLICE STATION
SHIVAMOGGA
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
HIGH COURT OF KARNATAKA
AMBEDKAR VEEDHI
BENGALURU-560 001.
 2. SRI RAGHU, S/O RAMU
AGED ABOUT 33 YEARS
R/AT 3RD CROSS
HOSAMANE EXTENSION
SHIVAMOGGA-577 201.
- ...RESPONDENTS

(BY SMT. RASHMI JADHAV, HCGP FOR R1;
R2 SERVED)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 14-A OF THE SC/ST (POA) ACT, 2015 PRAYING TO GRANT ANTICIPATORY BAIL TO APPELLANTS IN THE EVENT OF THEIR ARREST IN CR.NO.334/2021 DATED 08.10.2021 REGISTERED BY DODDAPETE P.S., SHIVAMOGGA ON THE FILE OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, SHIVAMOGGA FOR THE OFFENCE P/U/S 3(1) (R), 3(1)(S), 3(2) (V-A) OF SC/ST (POA) AMENDMENT ACT AND SEC.342, 364A, 394 R/W 34 OF IPC.

THIS CRIMINAL APPEAL COMING ON FOR ADMISSION THIS DAY, THE COURT DELIVERED THE FOLLOWING:

J U D G M E N T

Heard.

2. Aggrieved by the rejection of their anticipatory bail petition, accused Nos.1 and 2 in Cr.No.334/2021 of Doddapete Police Station, Shivamogga Sub-Division have preferred the appeal.

3. Doddapete Police registered Crime No.334/2021 against the appellants and two others for the offences punishable under Sections 364(A), 342, 394 R/w 34 of IPC and Sections 3(1)(r), 3(1)(s) 3(2)(v-a) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SC/ST Act' for short) on the basis of complaint of one Raghu.

4. It is alleged that on 07.10.2021 at 11.30 a.m. accused No.1- Shivakumar demanded Rs.2 lakhs from the

complainant with regard to some developmental projects and the complainant said that he will pay that amount after work is commenced. Again on 07.10.2021, at 3.45 p.m., when the complainant was proceeding towards singara showroom, the appellants allegedly accosted the complainant, assaulted him demanding money and abused him with reference to his caste.

5. It is further alleged that they kidnapped him in Car bearing No.KA-17-M-9887, held him hostage in guest house of appellant No.2 and robbed his gold chain, finger ring, mobile phone and cash of Rs.10,000/- and demanded ransom of Rs.50 lakhs. It is further alleged that accused No.3 was also present at that time and then the accused released him.

6. The Trial Court has rejected anticipatory bail petition of appellants on the ground that Section 18 of the SC/ST Act bars granting anticipatory bail.

7. As per the complaint itself the incident took place with reference to some monetary transaction. During pendency of this appeal, appellant No.1/accused

No.1 admittedly was arrested and granted bail. The Trial Court has granted anticipatory bail to accused No.3. Abuse with reference to caste was not within a public view. Even the alleged assault was in the background of some financial transactions. Therefore, *prima-facie* applicability of the provisions of the SC/ST Act is doubtful. Under the circumstances, it is a fit case to grant anticipatory bail to appellant No.2. Therefore, the appeal is partly allowed.

The appeal of appellant No.1 dismissed as infructuous. The impugned order against appellant No.2 is hereby set aside. The application filed by appellant No.2 is allowed.

Appellant No.2 is granted anticipatory bail in Crime No.334/2021 of Doddapete Police Station. If he is arrested in the said case he shall be released on bail subject to following conditions:

- (i) He shall appear before the Investigating Officer within ten days from the date of receipt of copy of this order.
- (ii) He shall execute personal bond in a sum of Rs.25,000/- and furnish one surety in the

likesum to the satisfaction of the Investigating Officer/Jurisdictional Court for his appearance as and when required.

- (iii) He shall not tamper the prosecution witnesses by threats, inducement or otherwise.

**Sd/-
JUDGE**

NMS