



**IN THE HIGH COURT OF KARNATAKA,
KALABURAGI BENCH**

DATED THIS THE 12TH DAY OF APRIL, 2023

BEFORE

THE HON'BLE MR JUSTICE S RACHAIAH
CRIMINAL PETITION NO. 200293 OF 2023

BETWEEN:

1. SAIBANNA S/O BHANUDAS CHINCHOLE,
AGE: 32 YEARS, OCC: AGRICULTURE,
R/O THORLEWADI, TQ. UMARGA,
DIST. OSMANABAD,
MAHARASHTRA STATE-413501.
2. HANAMANTHA S/O DHANARAJ HONNALE
AGE: 24 YEARS, OCC: AGRICULTURE,
R/O THORLEWADI, TQ. UMARGA,
DIST. OSMANABAD,

MAHARASHTRA STATE,-413501
3. BHASKAR S/O AMBADAS MISALE
AGE: 45 YEARS, OCC: LABOURER,
R/O THORLEWADI, TQ. UMARGA,
DIST. OSMANABAD,
MAHARASHTRA STATE-413501
4. DIPAK S/O MADHUKAR MISALE
AGE: 19 YEARS, OCC: WAITER,
AT HOTEL MANAGEMENT,
R/O THORLEWADI TQ. UMARGA,
DIST. OSMANABAD,

MAHARASHTRA STATE-413501
5. ARJUN S/O TULASIRAM BORALE
AGE: 19 YEARS, OCC: AGRICULTURE,
R/O THORLEWADI, TQ. UMARGA,





DIST. OSMANABAD,
MAHARASHTRA STATE-413501

6. BHAJARANG S/O RAM MEKALE
AGE: 21 YEARS, OCC: AGRICULTURE,
R/O THORLEWADI, TQ. UMARGA,
DIST. OSMANABAD, MAHARASHTRA STATE-413501
7. AVINASH S/O LAXMAN MISALE
AGE: 21 YEARS, OCC: AGRICULTURE,
R/O THORLEWADI TQ. UMARGA,
DIST. OSMANABAD,
MAHARASHTRA STATE-413501
8. MOHAN S/O TULASIRAM HONNALE
AGE: 32 YEARS, OCC: AGRICULTURE,
R/O THORLEWADI TQ. UMARGA,
DIST. OSMANABAD,
MAHARASHTRA STATE-413501
9. SUNIL S/O PANDIT DHAPEGAON
AGE: 26 YEARS, OCC: LABOURER,
R/O THORLEWADI TQ. UMARGA,
DIST. OSMANABAD,
MAHARASHTRA STATE-413501
10. DHANARAJ S/O HANAMANTA HONNALE
AGE: 45 YEARS, OCC: AGRICULTURE,
R/O THORLEWADI TQ. UMARGA,
DIST. OSMANABAD,
MAHARASHTRA STATE-413501
11. INDRAJEET S/O NILAKANTH CHINCHOLE
AGE: 38 YEARS, OCC: AGRICULTURE,
R/O THORLEWADI TQ. UMARGA,
DIST. OSMANABAD,
MAHARASHTRA STATE-413501
12. SHIVARAJ S/O DATTU MANDALE
AGE: 30 YEARS, OCC: AGRICULTURE,
R/O THORLEWADI TQ. UMARGA,



DIST. OSMANABAD,
MAHARASHTRA STATE-413501

13. MAHADEV S/O PANDIT GHOTALE
AGE: 21 YEARS, OCC: LABOURER,
R/O KOLASUR VILLAGE, DIST. OSMANABAD
MAHARASHTRA STATE-413501

...PETITIONERS

(BY SRI. SYED MASTAN, ADVOCATE)

AND:

1. THE STATE THROUGH
MANTHAL POLICE STATION,
TQ. BASAVAKALYAN, DIST. BIDAR
REPRESENTING BY LEARNED
ADDL.STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA BENCH
AT KALAUBRAGI 585107

...RESPONDENT

(BY SRI. GURURAJ V HASILKAR, HCGP FOR RESPONDENT)

THIS CRL.P. IS FILED U/S. 439 OF CR.P.C, PRAYING TO
RELEASE THE PETITIONERS ON BAIL IN CRIME No.84/2022 OF
MANTHAL POLICE STATION, TALUK BASAVAKALYAN DISTRICT
BIDAR, FOR THE OFFENCES PUNISHABLE U/SEC.143, 147, 148,
307, 333, 354, 504, 506, 353, 395, 397, 212, 120(B), R/W
SEC. 149 OF I.P.C AND U/SEC. 25(ii)(1AB) OF ARMS ACT
2019, PENDING BEFORE THE ADDL. J.M.F.C COURT AT
BASAVAKALYAN.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
THE COURT MADE THE FOLLOWING:



ORDER

The accused Nos.1, 3, 4, 7 to 13, 20, 21 and 30 are before this Court seeking grant of bail under Section 439 of Cr.P.C. in Crime No.84/2022 of Manthala Police Station, registered for the offences punishable under Sections 143, 147, 148, 307, 333, 353, 354, 395, 504, 506 r/w 149 of the Indian Penal Code (for short 'IPC'), pending before the learned Addl. Civil Judge (Jr. Dn.) and JMFC Court, Basavakalyan, Bidar District.

2. Heard Sri.Syed Mastan, learned counsel for the petitioners and Sri.Gururaj V.Hasilkar, learned High Court Government Pleader for the respondent -State. Perused the materials on record.

3. Brief facts of the case are as follows:-

On 24.09.2022, P.S.I. Smt.Asha lodged a complaint before the Mahagaon Police Station stating that there was a complaint against the accused persons in respect of Crime No.75/2022 under Sections 8(c), 20(B) of NDPS Act. During the investigation, the complainant came to know that another accused namely Santhosh was also involved in the case. On



23.09.2022, the complainant and her staff apprehended Santhosh and on the basis of voluntary statement made by said Santhosh, the complainant, CPI and their staff went to the place where he had purchased the ganja. It is stated that the police along with 15 persons went to Honnalli village along with the weapons, torch lights etc., They parked their vehicle one kilometer away from the land where the said Santhosh alleged to have purchased ganja and they were proceeding to said land by walking. At about 8.00 p.m., when the complainant and her team reached the land, they found that ganja plants were grown in the land in between Soya bean crops. The complainant and her staff were started unearthing the ganja plants. At that time, it is stated that, about 40-50 persons immediately attacked the complainant and her staff, started assaulting them with country pistol and also snatched the mobiles and robbed the money from the officials in spite of having disclosed their identity as police officers. Consequently, the CPI has sustained grievous injuries in the said incident and he became unconscious. Thereafter, he was shifted to the hospital and complaint came to be lodged by the complainant.



A case came to be registered in Crime No.84/2022. All these petitioners are in judicial custody for the offences stated *supra*.

4. Sri.Syed Mastan, learned counsel for the petitioners, reiterated the averments of the petition and submitted that the alleged offences took place during night hours. Admittedly, there were no lighting facilities in that area and the complaint averments clearly disclose that there were 40-50 persons gathered and assaulted the complainant, CPI and the team. It is further stated that, the petitioners in this case have been implicated falsely on the basis of the voluntary statement of the co-accused. It is also further stated that nothing has been recovered at the instance of these petitioners. The petitioners are the permanent residents of the respective villages and they are farmers and doing their agriculture work. The petitioners are in judicial custody and they are the earning members of their respective families. It is further submitted that the petitioners have to take care of their respective families including the parents and children. The alleged offences are neither punishable with death nor imprisonment for life. They will abide the conditions impose by this Court in the event of their release on bail. Making such submissions,



learned counsel for the petitioners prays to allow the both the petitions and grant bail to the petitioners.

5. *Per contra*, Sri Gururaj V.Haslikar, learned High Court Government Pleader vehemently opposed the petition stating that all these petitioners have joined hands with other accused persons and assaulted the police Inspector who is still under treatment. If the petitioners are enlarged on bail, that would certainly demoralize the police officers. It is further submitted that the investigation is completed and charge sheet is filed and overt act of each of the petitioners in this case has clearly been attributed by the Investigating Agency. Therefore, the petitioners are not entitled for any relief, as prayed for in this petition.

6. Heard learned counsel for the respective parties and also perused the documents available on record.

7. It is an admitted fact that the petitioners have been implicated in Crime No.84/2022 of Manthala Police Station, for the offences stated *supra*. On perusal of the charge sheet averments, it appears that no overt act has been attributed against each individual. It is stated in the complaint that the



incident occurred during night hours and there are 40-50 members who assaulted the police Inspector and caused injury to C.P.I. who is yet to recover and he is taking treatment till today.

8. Be that as it may, without considering the merits of the case, it is necessary to consider the seriousness of the offences. The police have registered the case under section 307 of IPC which is a major offence including the other offences. The medical report says that, the injured is out of danger, but still he is taking treatment. However, there is ambiguity in respect of the assault to the C.P.I. and other staff. Considering the ambiguity in respect of the assault made to the police personnel i.e., C.P.I., it is appropriate to grant bail to the petitioners.

9. It is needless to say that the Hon'ble Supreme Court in the case of *State of Rajasthan v. Balachand*¹ has held that "*Bail is a rule, jail is an exception.*" Considering the said concept, there is no ambiguity to this Court to grant bail to the

¹ AIR 1977 SC 2447



petitioners by imposing suitable conditions to satisfy the apprehension of the prosecution.

10. Hence, I proceed to pass the following:

ORDER

The petition is ***allowed***.

The petitioners are ordered to be enlarged on bail in Crime No.84/2022 of Manthala Police Station, pending before the learned Addl. Civil Judge (Jr.Dn.) and JMFC Court, Basavakalyan, Bidar District, on executing personal bonds for a sum of Rs.1,00,000/- (Rupees One Lakh only) each with one surety each for the likesum to the satisfaction of the Trial Court, subject to the following conditions:

- a) The petitioners shall appear before the Trial Court on all dates of hearing without fail.
- b) The petitioners shall co-operate in completing the disposal of the case.
- c) In case, any of the petitioners remained absent and try to hamper the proceedings of the Trial Court, liberty is reserved to the prosecution to file



necessary application for cancellation of the bail on the ground of hampering the trial.

- d) The petitioners shall not leave the jurisdiction of the court till disposal of the case.

**Sd/-
JUDGE**

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List No.: 1 Sl No.: 14