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IN THE COURT OF THE PRINCIPAL CITY CIVIL AND
SESSIONS JUDGE, AT BENGALURU

Dated this the 8th day of January, 2025

Present: Shri Muralidhara Pai B.
B.Com., L.L.B.
Principal City Civil and Sessions Judge,
Bengaluru.

Crl. Misc. No.10806/2024

Petitioner : Sharad Bhausahab Kalaskar,
S/o. Bhausahab Kaduba Kalaskar
Aged 31 years,
R/at Kesapuri Post,
Doulatabad District & Tahasil,
Chatrapathi Sambhalingara-431002.

Vs

Respondent : State of Karnataka
by Rajajeshwarinagar Police Station
Bengaluru.

[By Sri S. Balan,
Special Public Prosecutor]

ORDER

Accused No.10 in Spl.C.C. No. 872/2018 has
maintained this petition under Section 439 of Criminal

Procedure Code praying for regular bail in the case, in the interest of justice.

2. The prosecution has filed objection to this petition.

3. Heard learned Counsel for Petitioner and learned Special Public Prosecutor.

4. The following points would arise for the consideration of this Court:

1. Whether the Petitioner is entitled for regular bail as prayed in the petition?

2. What Order?

5. The findings of this Court on the above points are under:

Point No.1:- In the Affirmative;

Point No.2:- As per final order;

for the following:

REASONS

6. Point No.1: The Petitioner is Accused No.10 in Spl.C.C. No.872/2018, which pertains to killing of a journalist by name Gowri Lankesh on 5.9.2017. The accused

herein is facing trial for the offenses punishable under Sections 302, 120-B, 114, 118, 109, 201, 203, 204, 35 of IPC, Section 25(1) 25(1B), 27 (1) of Indian Arms Act, 1959 and Sections 3(1)(i), 3(2), 3(3) and 3(4) of KCOC Act.

7. The Petitioner has maintained this petition on 25.11.2024 praying for regular bail in the case on the ground that he is in custody in connection with the case from 4.9.2018 and that it is unlikely to complete trial in the case within a short span of time. He has submitted that other accused in the case are on bail and his detention in the custody pending disposal of the case is unwarranted. In the above circumstances, he has prayed to extend him benefit of bail on the ground that he was not involved in the alleged crime as well as on the ground of parity. He has also stated that he is ready to abide by any condition that may be imposed by the Court.

8. The prosecution has filed detailed objection in this petition narrating specific overt act alleged against the Petitioner and stated that he is a habitual offender. They

have stated that the Petitioner is a convict in S.C. No.706/2016 and that he has been sentenced to undergo imprisonment for life. The prosecution has expressed apprehension that if the Petitioner is released on bail there is every chance of his committing similar offense and that he may even tamper the prosecution witnesses.

9. Undisputedly, the case in Spl.C.C. No. 872/2018 is pending against 18 accused persons. Amongst them Accused No.15 is shown to be absconding and the trial is being conducted against Accused Nos.1 to 14 and 16 to 18. It is also not in dispute that Accused Nos.5, 6, 7, 9, 11, 13, 16 and 17 are on bail in the case as per the Orders passed by Hon'ble High Court of Karnataka in Crl.P. No.927/2023 and other criminal petitions. Accused Nos.1 to 4, 8, 12, 14 and 18 are on bail in the case as per Order passed by this Court in Spl.C.C. No.872/2018 and other three criminal petitions. Thereby it becomes clear that amongst 17 accused persons who are facing trial in Spl.C.C No.872/2018, 16 accused persons are already on bail.

10. The case of the prosecution is that the accused are the members of an organized crime syndicate, with an ideology of establishing Hindu Rashtra by rebellion, which is a secret and unnamed organized crime syndicate, which was formed in the year 2010-11. It is stated that at the beginning the said organized crime syndicate was active under the leadership of Dr. Veerendra Tavde and under the guidance of Shashikanth Sitaram Rane @ Kaka of Sanatana Organization, who extended financial support through Accused No.5 of the same Organization. It is stated that Dr. Veerendra Tavde added Accused Nos.1, 5, 6, 8, 11, 15, 16 and 18 to this organized crime syndicate. It is further stated that Accused No.15 joined Accused Nos.7 and 13 to the crime syndicate and that Accused No.13 joined Accused Nos.2 and 17 to the crime syndicate. It is stated that Accused No.18 joined Accused Nos.9, 10 and 14 to the crime syndicate and that Accused No.14 joined Accused Nos. 3 and 4 to the crime syndicate. It is the case of the prosecution that in August 2016 the accused persons gathered in the room of Accused No.10 at Belagavi and held conspiracy meeting in the

leadership of Accused No.1 to murder Gowri Lankesh and in the month of August 2017 they had gathered in the house of Accused No.7 in Seegehalli and held preparatory meeting to execute their plan, wherein different works were entrusted to the accused persons. It is alleged that all the accused persons have undergone arms training, making crude bombs, etc and that they have taken part in the conspiracy to murder the journalist - Gowri Lankesh. It is further alleged that in furtherance of such criminal conspiracy on 5.9.2027 Accused Nos.2 and 3 went near the house of Gowri Lankesh and at about 10.00 p.m. when Gowri Lankesh was opening gate of her house, Accused No.2 fired at her with country-made pistol and caused her death. It is alleged that thereafter all the accused persons left to different places as per their plan to screen the crime and to destroy evidence of the crime.

11. Perusal of the case papers and the objection filed by the prosecution go to show that the accusation against the Petitioner herein is that he was a member of organized crime syndicate and he has given training to other accused persons regarding how to identify durjans and using pistol, air pistol,

firing practice, karate practice, preparation of petrol and circuit bombs. Thus, it becomes clear that even according to the case of the prosecution the Petitioner herein was not directly involved in the murder of Gowri Lankesh.

12. As already pointed out, as on this day all the accused facing trial in the case except the Petitioner are on bail. As such the Petitioner is entitled for bail even on the ground of parity. Further, admittedly the Petitioner is in custody in the case since 4.9.2018. In several decisions Hon'ble Apex Court has repeatedly held that speedy trial is a fundamental right implicit in the broad sweep and content of Article 21 of Constitution and that if the period of deprivation of personal liberty pending trial becomes unduly long, the fairness assured by Article 21 of the Constitution would receive a jolt. Hon'ble Apex Court has time and again emphasized that presumption of innocence being a facet of Article 21, it shall inure to the benefit of the accused. In the above narrated facts and circumstances of the case and the legal principles laid down by Hon'ble Apex Court, this Court

opines that the Petitioner has made out valid ground to seek regular bail in the case.

13. In their objection, the prosecution has stated that the Petitioner herein is a habitual offender and he is a convict, who has suffered sentence of life imprisonment in S.C. No.706/2016. The Petitioner has not disputed this contention of the prosecution. Even then, taking into consideration the period of incarceration undergone by the Petitioner and need of deciding the case independently based on materials that would be produced in the case, this Court of the view that the conviction suffered by the Petitioner in S.C. No.706/2016 would not come in the way of extending benefit of bail to him in the case.

14. As already pointed out, in their objection the prosecution has expressed certain apprehensions about the Petitioner misusing the bail and indulging in commission of similar offenses and the chances of threatening the prosecution witnesses. Undisputedly, the names of the witnesses in the case have been hidden from the accused persons by masking their details. As such this Court does

not find any chance of the Petitioner attempting to tamper the prosecution witnesses. Further, this Court has already examined 164 witnesses and almost equal number of witnesses have been given by the prosecution. As such the most of the remaining witnesses are the police officials or the officials of other departments, who assisted during the investigation in the case. In view of the same, this Court does not find any merit in the above contention of the prosecution.

15. Added to the above, while granting the bail in this type of cases normally the Courts would impose certain conditions. In the considered view of this Court such conditions would take care of the apprehensions expressed by the prosecution. It is well settled that if the person on bail fails to adhere to the terms of the bail naturally the prosecution would get the right to seek for cancellation of the bail. For the foregoing reasons, Point No.1 is answered in the affirmative.

16. Point No.2: In the result, this Court proceeds to pass the following:

ORDER

The petition filed under Section 439 of Criminal Procedure Code is allowed.

The Petitioner in Spl. C.C. No.872/2018 (Crime No. 221/2017 of Rajarajeshwarinagar Police Station) is ordered to released on bail, subject to following conditions:

1. The Petitioner shall execute a personal bond for Rs.2,00,000/- along with two sureties for like sum to the satisfaction of the Court.
2. He shall appear regularly before the Court on all hearing dates unless their personal appearance is exempted for valid reason.
3. He shall not directly or indirectly threaten or tamper the prosecution witnesses.
4. He shall not involve in similar offenses in future.
5. He shall furnish details of his place of residence pending disposal of the case, registered mobile number and e-mail ID if any along with supporting documents.
6. He shall not leave the jurisdiction of the Court pending disposal of the case without prior permission of the Court.

7. In the event of violation of any one of the aforesaid bail conditions, the prosecution is at liberty to seek cancellation of his bail.

(Dictated to the Stenographer Grade-II directly on the computer, typed by her, then corrected and pronounced by me in the Open Court on this 8th the day of January, 2025)

(Muralidhara Pai B.)
Principal City Civil & Sessions Judge,
Bengaluru.