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HIGH COURT OF KARNATAKA

Status: PendingCase Number: **CRL.A 100554/2024**
(KAHC020194182024)Classification: **C**Date of Filing: **04/11/2024 10:27:03**Petitioner: **MANJUNATHA S/O**
MUDAKAIAHPetitioner Advocate:
IRANAGOUDA K KABBURRespondent: **THE STATE OF**
KARNATAKA

Respondent Advocate:

Filing No.: **CRL.A 100572/2024**Judge: **SREENIVAS HARISH**
KUMAR AND T. G.
SHIVASHANKARE GOWDALast Posted For: **ADMISSION**Last Date of Action: **13/11/2024**Last Action Taken: **ADMIT/RULE**

Next Hearing Date:

Daily Orders: CRL.A 100554/2024

1	SREENIVAS HARISH KUMAR AND T. G. SHIVASHANKARE GOWDA	<u>13/11/2024</u>
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Crl. A. No. 100579/2024 is filed by accused 4, 18, 20, 24, 25, 26, 49, 68, 69, 70, 71, 78, 81, 106, 109 and 110; Crl. A. No. 100547/2024 is filed by accused 50, 51, 52, 99, 103 and 112; Crl. A. No. 100548/2024 is filed by accused no. 90; Crl. A. No. 100549/2024 is filed by accused 62, 63, 64 and 79; Crl. A. No. 100553/2024 is filed by accused 3, 7, 8, 12, 13, 14, 19, 22, 23, 27, 28, 29, 33, 34, 35, 37, 39, 40, 41, 43, 48, 53, 57, 60, 65, 72, 73, 89, 111, 113 and 117; Crl. A. No. 100554/2024 is filed by accused 9, 16, 30, 38, 55, 56, 21, 93, 102, 108 and 115; Crl. A. No. 100555/2024 is filed by accused 2, 17, 42, 43, 44, 54, 58, 59, 82, 95, 96, 101, 104 and 105; Crl. A. No. 100585/2024 is filed by accused 61, 80, 85, 86 and 87; Crl. A. No. 100586/2024 is filed by accused 98, 107 and 114; and Crl. A. No.100593/2024 is filed by accused 31, 32, 36, 67, 77, 83, 84 and 88.

In all the appeals we have heard the learned counsel for respective appellants/accused, learned Addl. SPP for respondent-State and the learned counsel for victims. Matter requires consideration. Appeals are admitted.

ORDER ON I.A. NO.1/2024

In all these appeals the accused persons have filed I.A. No. 1/2024 u/S 389(1) r/w Sec. 401 and 374(2) of Cr.P.C. seeking suspension of sentence and grant of bail pending consideration of appeals. Applications are opposed by the State by filing counter.

2. We have heard both sides.

3. The trial court has convicted the accused persons as below:

a. Accused Nos.1 to 4, 7 to 9, 12 to 14, 16 to 44, 47 to 65, 67 to 73, 76 to 90, 93, 95, 96, 98, 99, 101 to 115 & 117 are hereby sentenced to undergo Simple Imprisonment for a period of Three [3 months] for the offence punishable under Section 143 R/w Sec. 149 of I.P.C. They are also sentenced to pay fine of Rs.500/- each and in default undergo simple imprisonment for a period of fifteen days.

b. Accused Nos.1 to 4, 7 to 9, 12 to 14, 16 to 44, 47 to 65, 67 to 73, 76 to 90, 93, 95, 96, 98, 99, 101 to 115 & 117 are further sentenced to undergo Simple Imprisonment for a period of Six [6 months] for the offence punishable under Section 147 R/w Sec. 149 of I.P.C. They are also sentenced to pay fine of Rs.1,000/- each and in default undergo simple imprisonment for a period of two months.

c. Accused Nos.1 to 4, 7 to 9, 12 to 14, 16 to 44, 47 to 65, 67 to 73, 76 to 90, 93, 95, 96, 98, 99, 101 to 115 & 117 are further sentenced to undergo Simple Imprisonment for a period of One [1 year] for the offence punishable under Section 148 R/w Sec. 149 of I.P.C. They are also sentenced to pay fine of Rs.2,000/- each and in default undergo simple imprisonment for a period of three months.

d. Accused Nos.1 to 4, 7 to 9, 12 to 14, 16 to 44, 47 to 65, 67 to 73, 76 to 90, 93, 95, 96, 98, 99, 101 to 115 & 117 are further sentenced to undergo Simple Imprisonment for a period of One [1 year] for the offence punishable under Section 323 R/w Sec. 149 of I.P.C. They are also sentenced to pay fine of Rs.2,000/- each and in default undergo simple imprisonment for a period of three months.

e. Accused Nos.1 to 4, 7 to 9, 12 to 14, 16 to 44, 47 to 65, 67 to 73, 76 to 90, 93, 95, 96, 98, 99, 101 to 115 & 117 are further sentenced to undergo Simple Imprisonment for a period of One [1 year] for the offence punishable under Section 427 R/w Sec. 149 of I.P.C. They are also sentenced to pay fine of Rs.2,000/- each and in default undergo simple imprisonment for a period of three months.

f. Accused No. 98/Ramanna S/o Lakshman Bhovi, Accused No. 107/Chandrappa S/o Lingappa and Accused No. 114/Ramesh S/o Hanamanthappa are hereby sentenced to undergo Rigorous Imprisonment for a period of Five [5 years] for the offence punishable under Section 436 R/w Sec. 149 of I.P.C. They are also sentenced to pay fine of Rs.5,000/- each and in default undergo simple imprisonment for a period of one year.

g. Accused Nos. 1 to 4, 7 to 9, 12 to 14, 16 to 44, 47 to 65, 67 to 73, 76 to 90, 93, 95, 96, 99, 101 to 106, 108 to 113, 115 & 117 are hereby sentenced to undergo Simple Imprisonment for a period of Two [2 years] for the offence punishable under Section 3(1) (x) of SC/ST Act, 1989 R/w Sec. 149 of I.P.C. They are also sentenced to pay fine of Rs.2,000/- each and in default undergo simple imprisonment for a period of six months.

h. Accused Nos.1 to 4, 7 to 9, 12 to 14, 16 to 44, 47 to 65, 67 to 73, 76 to 90, 93, 95, 96, 99, 101 to 106, 108 to 113, 115 & 117 are hereby sentenced to undergo Simple Imprisonment for a period of Two [2 years] for the offence punishable under Section 3(1) (xi) of SC/ST Act, 1989 R/w Sec.149 of I.P.C. They are also sentenced to pay fine of Rs.2,000/- each and in default undergo simple imprisonment for a period of six months.

i. Accused Nos.1 to 4, 7 to 9, 12 to/14, 16 to 44, 47 to 65, 67 to 73, 76 to 90, 93, 95, 96, 99, 101 to 106, 108 to 113, 115 & 117 are hereby sentenced to undergo Imprisonment for Life for the offence punishable under Section 3(2)(iv) of SC/ST Act, 1989 R/w Sec. 149 of I.P.C. They are also sentenced to pay fine of Rs.5,000/- each.

j. Though Accused Nos. 1 to 4, 7 to 9, 12 to 14, 16 to 44, 47 to 65, 67 to 73, 76 to 90, 93, 95, 96, 99, 101 to 106, 108 to 113, 115 & 117 are convicted for the offences punishable under Secs. 354, 504 & 436 of IPC, there are no separate sentences passed for the offences U/Sec.354, 504 & 506 of I.P.C. Since, they have been convicted and sentenced for the offences punishable under Sections 3(1) (x), (xi) & 3(2)(iv) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The above sentences shall run concurrently.

Since M.O.1 to 5 are valueless, the same are ordered to be destroyed after Appeal period.

The Accused Nos. 98, 107 & 114 are entitled for set off under Section 428 of Cr.P.C., for the period of detention already undergone.

4. It is the contention of the learned counsel for the appellants/ accused that all the accused persons were on bail during the trial. Matter has been tried for a period of ten years. During the period of trial none of the appellants

being the accused indulged in any activity which affected trial of the case or any of the victims. In the village, the victims as well as the accused have forgotten what had happened earlier and are leading peaceful and cordial life now. Appellants have very good case on merits. That apart, accused 98, 107 and 114, belonging to the Scheduled Tribe, are also implicated in the case. There is no intention on the part of the accused to commit such offences as a trivial quarrel that took place on 28.08.2024 in the morning at Shiva theatre, Gangavati while purchasing ticket by accused no.1 resulted in the happening of an untoward incident at 4.30 p.m. in the village. These accused have been implicated after deliberation and there was delay in filing complaint. Soon before filing of complaint, Police visited the village and inspite of that they did not take any action. This clearly indicates false implication of all these persons which made them face trial. The appellants are ready to abide by any conditions. Hence they may be released on bail imposing any conditions.

5. Per contra, learned SPP argues that intention of the accused persons has been explained before the trial court; purposefully they made preparations and burnt the houses belonging to four of the victims, some of the victims were manhandled and assaulted, and they were treated in the hospital. The prosecution has placed positive evidence which has been accepted by the trial court and thereby conviction is recorded. If bail is granted to the appellants/ accused they are going to meddle with the victims and create law and order problem in the village. It is not a case for suspension of sentence and grant of bail to the appellant/accused persons.

6. Learned counsel appearing on behalf of the victims submits that if bail is granted, the appellant/ accused persons may meddle with the victims and there will be a law and order problem in the village. He supports the arguments of the learned SPP.

7. We have considered the arguments addressed on behalf of the respective parties and perused the trial court judgment and also materials on record.

8. On perusal of the materials placed on record it is pertinent to note that a trivial quarrel took place on 28.08.2024 in the morning while the accused no.1 was purchasing ticket at Shiva theatre, Gangavati to watch a movie 'Power'. In the said quarrel accused no.1 was assaulted by some other persons. For this reason by 4.30 p.m. he returned to the village, informed villagers; all of them gathered near Durgadevi temple, used the name of the caste of the victims, insulted them intentionally, committed mischief by putting fire on the sheds of victims, i.e, Nagappa, Poojaru Honnurappa, Nagamma and Pampapathi and burnt their houses. Some of the victims were assaulted and thereby on filing of the complaint at 00.15 hours on 29.08.2014, law was set into motion, investigation culminated in filing chargesheet against the accused, accused were arrested during the course of investigation, later they were released on bail. They faced trial and trial has culminated into their conviction.

9. It is pertinent to note that accused 98, 107 and 114 belong to Scheduled Tribe. The cross examination of I.O. has brought out certain admissions which may be of relevance at this stage in the context of doubting the case projected by the prosecution.

10. It is seen that all the accused were on bail during the trial. No material is placed that they misused the discretionary bail. The injuries sustained by some of the victims are all simple in nature. The photographs pertaining to the burnt houses are also placed on record. The appellant/ accused have undertaken to abide by any condition. We are of the opinion that finding recorded by the trial court requires thorough examination. Therefore accused persons have made out ground for grant of bail and case for suspension of sentence.

11. In the result, we pass the following order.

ORDER

I.A. No. 1/2024 filed in all the appeals are allowed. Substantive sentence of imprisonment imposed on appellants/ accused is suspended till these appeals are decided on merits.

Appellants/accused are granted bail on each of them executing personal bond for Rs.1,00,000/- with a surety for likesum to the satisfaction of the trial court.

They shall deposit the fine amount within two weeks, if not already deposited.

They shall surrender before the court in case the appeals are dismissed.

Last Updated On: 2024-11-13 16:42:23