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

Dated this the 9<sup>th</sup> day of October, 2024

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

**Spl.C.C. No. 872/2018 & Crl. Misc. Nos.5593, 6969  
& 6970 of 2024**

Complainant : State of Karnataka  
by Rajajeshwarinagar Police Station  
Bengaluru.

[By Sri S. Balan,  
Special Public Prosecutor]

Vs.

Accused : Amol Kale and others

Applicants/  
Accused No.4 : Amit Ramachandra Baddi @  
Amit Baddi @ Amith @ Govinda,  
S/o late Ramachandra,  
Aged Rented house of Habib Chawl,  
R/at Janata Bazaar,  
Rani Chennamma Circle,  
Hubballi.

(By Sri Advocate)

Accused No.14 : Manohar Dundappa Edave @  
Manohar Edave @ Manoj,  
S/o Late Dundappa,  
Aged 29 years,  
R/at Ratnapura Village,  
(Totada Mane), Tajpur Post,  
Tikota Hobli,  
Bijapur Taluk and District.

(A4 & A14 by Sri Umashankar F. Megundi,  
Advocate)

Petitioners :1. Rajesh D. Bangera  
(in Crl. Misc. No. S/o. Deranna,  
5593/2024) Aged about 50 years,  
R/at Paluru Village,  
Madakeri Talk & District.

2. Vasudev Bhagwan Suryavanashi,  
S/o. Late Bhagwan,  
Aged about 29 years,  
R/at Sakali Village,  
Yaval Talk, Jalngaon District,  
Maharashtra.

3. Rushikesh Devadekar,  
S/o Bhaskar,  
Aged about 45 years  
R/a Asthaanand, Plot No. 193,  
Flat No. 703, Ulwe Node, Panvel Taluk,  
Raigad District,  
Maharashtra.

(By Sri Ashwin Kumar H. Advocate)

Petitioners :1. Parashuram Ashok Waghmore,  
(in Crl. Misc. No. S/o Ashok Waghmore  
6969/2024) Aged About 32 years,

R/at Basavanagar,  
Sindhagi,  
Vijayapura District- 586 128

2. Ganesh Miskin,  
S/o Dashartha,  
Aged about 32 years,  
R/t No.23, Chaitanya Nagar,  
R.N. Shetty Road,  
Hubballi- 580030.

(By Sri Ashwin Kumar H. Advocate)

Petitioner : Amol Kale,  
(in Crl. Misc. No. S/o. Late Arvind Ramachandra,  
6970/2024) Aged about 42 years,  
R/at Flat No. 3, "B" Wing,  
Akshaya Plaza, Manik Colony,  
Chinchwad Pune City,  
Maharashtra – 411 033.

(By Sri Sparsh Shetty, Advocate)

### COMMON ORDER

Accused No.4 namely Amit Ramachandra Baddi and  
Accused No.14 namely Manohar Dundeppa Edave have  
maintained the bail applications in Spl.C.C. No.872/2018  
under Section 439 of Criminal Procedure Code praying to  
enlarge them on bail in the case, in the interest of justice.

2. Accused No.8- Rajesh D. Bangera, Accused No.12 - Vasudev Bhagawan Suryavamshi and Accused No.18 - Rushikesh Devadekar, in Spl.C.C. No.872/2018 have maintained the petition in Crl. Misc. No. 5593/2024, Accused No.2 - Parashuram Ashok Waghmore and Accused No.3 - Ganesh Miskin in Spl.C.C. No. 872/2018 have maintained a petition in Crl. Misc. No.6969/2024 and Accused No.1 - Amol Kale in Spl.C.C. No. 872/2018 has maintained the petition in Crl. Misc. No. 6970/2024, under Section 439 of Cr.P.C. praying to enlarge them on bail in the case, in the interest of justice.

3. The prosecution has filed separate objection to the above referred bail applications and the petitions.

4. All these bail applications and the petitions have been filed by the accused in Spl.C.C. No.872/2018. As such this Court has taken up all these applications and the petitions for consideration together.

5. Heard learned Counsels for the Applicants/the Petitioners and learned Special Public Prosecutor. Learned Counsel for accused/the Petitioners have also submitted their written arguments.

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

1. Whether the Applicants/the Petitioners are entitled for bail as prayed in the applications/the petitions?
2. What Order?

7. 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

8. Point No.1: The case in Spl.C.C. No.872/2018 relates to killing of a journalist by name Gowri Lankesh on 5.9.2017. The accused herein are 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.

9. In connection with the murder of Gowri Lankesh, initially Rajarajeshwari Nagar Police had registered a case in Crime No. 221/2017 on 5.9.2017 against unknown persons for the offense punishable under Section 302 of IPC and Section 25 of Arms Act. Later the investigation of the case was entrusted to a Special Investigating Team. They apprehended one K.T. Naveen Kumar on 2.3.2018 and implicated Accused No. 2 namely Praveen in the case. Afterwards they filed charge sheet before the Court by showing K.T. Naveen Kumar and Praveen as Accused Nos.1 and 2 respectively, for the offenses punishable under Sections 302, 114, 118, 120-B, 35 of IPC and Sections 3 and 25 of Arms Act.

10. While filing the said charge sheet the Investigation Officer had sought permission to conduct further investigation in the case. During such further investigation

the Investigating Agency apprehended other accused persons in connection with the case and invoked Section 3 of KCOC Act. As such the case came to be transferred to this Special Court for trial of cases under KCOC Act. Subsequently an additional charge sheet was filed in the case against 18 accused persons including K.T. Naveen Kumar and Praveen 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. Based on such additional charge sheet this Court took cognizance of the alleged offenses on 17.12.2018.

11. The case of the prosecution is that the accused herein are the members of an organized crime syndicate, the persons having 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.

12. The accused/the Petitioners herein have maintained the bail application/the petitions praying for regular bail in the case mainly on the ground that they are in judicial custody for almost 6½ years and there is no likelihood of completion of the trial within a short span of time. As such they have prayed to allow the bail application and the petitions on the ground that they are ready to furnish adequate surety to the satisfaction of the Court to ensure their regular attendance. In support of this contention they have also relied on benefit of bail granted to some of co-

accused in the case and prayed to extend them similar benefit on the ground of parity.

13. Admittedly, Hon'ble High Court of Karnataka granted bail to Accused No.11 vide Order dated 7.12.2023 passed in Crl.P. No.7963/2023. The said Order was challenged by the prosecution as well as the de-facto Complainant before Hon'ble Supreme Court of India. Hon'ble Apex Court dismissed concerned Special Leave Petitions in SLP (Crl.) Nos.740/2024 and 2433/2024 vide Order dated 20.8.2024. Similarly, Hon'ble High Court of Karnataka has granted bail to Accused Nos.5, 7 and 17 vide Order dated 16.7.2024 passed in Crl.P. Nos.927/2024, 9417/2023 and 9465/2023. Further, Hon'ble High Court of Karnataka has granted bail to Accused Nos.6, 9, 13 and 16 vide Order dated 4.9.2024 passed in Crl.P. Nos.7787/2024, 7811/2024, 7809/2024 and 7805/2024. The above referred Orders of Hon'ble High Court of Karnataka has extended benefit of bail to these accused persons mainly on the ground that they are in custody for last six years and by considering their long

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period of incarceration as well as unlikelihood of completion of trial in the case in short span of time.

14. Undisputedly, the accused/the Petitioners herein except Accused No.18 are in custody in the case from the year 2018 i.e. Accused No.1 from 31.5.2018, Accused No.2 from 12.6.2018, Accused Nos.3 and 4 from 23.7.2018, Accused No.8 from 24.7.2018, Accused No.12 from 11.10.2018 and Accused No.14 from 31.5.2018. Accused No.18 is in custody in the case from 13.1.2020. Thereby it becomes clear that all these accused/the Petitioners except Accused No.18 are in custody in the case for nearly 6½ years.

15. The materials on record indicate that in the first charge sheet the prosecution had cited only 134 witnesses. Later, they have come up with list of additional witnesses at the time of filing additional charge sheet and as of now the prosecution has cited altogether 530 witnesses in the case. Further, this Court has framed charge in the case on 30.10.2021 and commenced the trial on 4.7.2022 by examining PW-1. Till date this Court has examined

altogether 147 witnesses. Apart from the above, the prosecution has given up 98 witnesses in the case by filing a memo on 13.9.2024. Thereby it becomes clear that there are still 285 witnesses to be examined on the side of the prosecution.

16. During the course of argument, learned Special Public Prosecutor has submitted that the prosecution is going to give up around 100 more witnesses in the case and the number of witnesses to be examined on the side of the prosecution is quite less. As already pointed out, as on this day the prosecution has not come up with complete list of witnesses that they are going to give up/drop in the case except list of 98 witnesses filed on 13.9.2024. In such circumstances, it is to be held that there are still 285 witnesses to be examined in the case.

17. The case papers reveal that the delay in conclusion of the trial was not either because of the accused persons or on account of the prosecution. The prosecution has been making its efforts to examine the witnesses

regularly by keeping their witnesses present before the Court on the dates of trial. Further, even the trial in the case is being held regularly and by reserving one week in a month for the trial in the case. The prosecution could examine only 147 witnesses till date. If we take into consideration the number of witnesses still to be examined in the case and the evidence that would be adduced through those witnesses, it is to be held there is no likelihood of completing trial in the case within a short time.

18. It is the specific case of the prosecution on 5.9.2017 Accused Nos.2 and 3 had gone near the house of Gowri Lankesh wherein Accused No.3 was the rider and Accused No.2 was pillion rider and that when Gowri Lankesh came near the house in a car and opening the gate of her house, Accused No.2 fired at her with country-made pistol, as a result of which she died on the spot. As per the case of the prosecution all other accused persons had extended assistance in committing such crime by arranging vehicles, fire arms etc in furtherance of their conspiracy. Thus, the

materials on record make it clear that Accused Nos.1, 4, 8, 12, 14 and 18 stand on same footing as that of the accused on bail i.e. Accused Nos.5 to 7, 9, 11, 13, 16 and 17.

19. In Jalaluddin Khan Vs Union of India ( 2024 SCC OnLine S.C. 1945 ) Hon'ble Supreme Court of India has held that “..... The allegations of the prosecution may be very serious. But, the duty of the Courts is to consider the case for grant of bail in accordance with the law. “Bail is the rule and jail is an exception” is a settled law. Even in a case like the present case where there are stringent conditions for the grant of bail in the relevant statutes, the same rule holds good with only modification that the bail can be granted if the conditions in the statute are satisfied....”.

20. In Manish Sisodia Vs Directorate of Enforcement ( 2024 SCC OnLine S.C. 1920 ) Hon'ble Supreme Court of India has held that “ .... The right to bail in cases of delay, coupled with incarceration for a long period, depending on the nature of the allegations, should be read into Section 439 of the Code and Section 45 of the PML Act. The reason is that

the constitutional mandate is the higher law, and it is the basic right of the person charged of an offense and not convicted, that he be ensured and given a speedy trial. When the trial is not proceeding for reasons not attributable to the accused, the Court, unless there are good reasons, may well be guided to exercise the power to grant bail.....”.

21. In Javed Gulam Nabi Shaikh Vs State of Maharashtra & another ( 2024 SCC OnLine SC 1693 ) wherein the accused was prosecuted under the provisions of the Unlawful Activities (Prevention) Act, 1967. Hon'ble Apex Court observed that “.... If the State or any prosecuting agency including the Court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.....”.

22. In Mohd. Muslim @ Hussain Vs State (NCT of Delhi) (2023 SCC OnLine SC 352 ) Hon'ble Supreme Court of India while considering the rigor under Section 37 of NDPS Act for granting bail to the accused person, has held that “..... Incarceration has further deleterious effects – where the accused belongs to the weakest economic strata : immediate loss of livelihood, and in several cases, scatter in of families as well as loss of family bonds and alienation from society. The Courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily..... ”.

23. In Satender Kumar Antil Vs Central Bureau of Investigation ( 2022 10 SCC 51 ) Hon'ble Supreme Court of India has held that “..... The general principle governing delay would apply to these categories also. To make it clear, the provision contained in Section 436A of the Code of any specific provision. For example, the rigor as provided under



Section 37 of the NDPS Act would not come in the way of such a case as we are dealing with the liberty of a person. We do feel that more the rigor, the quicker the adjudication ought to be. ...”

24. Learned Special Public Prosecutor has vehemently submitted that the accused herein the members of an organized crime syndicate, which is involved in the murder of Govinda Pansare in Kollahpur and Dr. Narendra Dabholkar in Pune, shoot out of Dr. M.M. Kalburgi, conspiracy to murder Professor Bhagawan and in cases relating to collection, possession and supply of fire arms and explosives in the country, which is investigated by Mumbai ATS and as such none of these accused persons/the Petitioners are entitled for bail in the case.

25. As per the version of the prosecution Accused Nos.1, 5, 8 and 10 are accused in case relating to murder of Dr. Narendra Dabholkar. Accused No.1 is an accused in the case of murder of Govind Pansare and Accused Nos.1, 5, 13 to 15 and 17 are the accused in the case pertaining to

attempt to murder Dr. Bhagawan. Further, the prosecution has also stated about other cases registered against Accused Nos.2 to 4 and 9.

26. As already pointed out, Accused Nos.5, 13 and 17 are on bail in the case as per Order passed by Hon'ble High Court of Karnataka in Crl.P. Nos.927/2023, 7809/2024 and 9465/2023 respectively. Further, the accused/the Petitioners have come up with a categorical statement that Accused No.4 has been acquitted in Crime No.144/2012 of Hubballi Police Station and Crime No.111/2013 of Hubballi Kasaba Police Station. It is further stated that Accused Nos.4 and 12 have been granted bail in Crime No.142/2015 i.e. M.M. Kalburgi's case. It is also stated that Accused No.14 has been granted bail in C.C. No.19618/2018 i.e. Professor Bhagawan's case. These contentions of the accused/the Petitioners have not been disputed by the prosecution.

27. In the above referred decisions Hon'ble Supreme Court of India 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 emphasized that presumption of innocence being a facet of Article 21, it shall inure to the benefit of the accused. In the above circumstances, taking into consideration the legal principles laid down by Hon'ble Apex Court, the period of incarceration undergone by the accused/ the Petitioners herein as well as benefit of bail extended by Hon'ble High Court of Karnataka to some of the co-accused as well as there being no chance of concluding trial in the case within a short time, this Court holds that the Applicants/the Petitioners have made out valid grounds to enlarge them on bail. This Court further holds that imposition of the conditions would ensure cooperation of the accused persons/the Petitioners in holding further trial in the case as well as protect the interest of the prosecution. For the foregoing reasons, Point No.1 is answered in the affirmative.

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

ORDER

The applications filed by Accused Nos.4 and 14 in Spl.C.C. No.872/2018 under Section 439 of Criminal Procedure Code are allowed.

The petitions in Crl. Misc. Nos.5593, 6969 and 6970 of 2024 filed under Section 439 of Criminal Procedure Code are allowed.

Accused Nos.1 to 4, 8, 12, 14 and 18 in Spl. C.C. No.872/2018 (Crime No. 221/2017 of Rajarajeshwarinagar Police Station) are ordered to released on bail, subject to following conditions:

1. Accused Nos.1 to 4, 8, 12, 14 and 18 shall execute a personal bond for Rs.2,00,000/- each along with two sureties for like sum to the satisfaction of the Court.
2. They shall appear regularly before the Court on all hearing dates unless their personal appearance is exempted for valid reason.
3. They shall not directly or indirectly threaten or tamper the prosecution witnesses.

4. They shall not involve in similar offenses in future.
5. They shall not leave the jurisdiction of the Court without permission of the Court till the disposal of the case.
6. They shall furnish details of their place of residence pending disposal of the case, registered mobile number and e-mail ID if any along with supporting documents.
7. In the event of violation of any one of the aforesaid bail conditions, the prosecution is at liberty to seek cancellation of their bail.

Original copy of the Order is kept in Spl.C.C. No. 872/2018 and copies thereof are kept in Crl. Misc. Nos.5593, 6969 and 6970 of 2024.

(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 the 9<sup>th</sup> day of October, 2024).

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