



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY

CRL.P.No. 11096 OF 2024

C/W

CRL.P.Nos. 11176 OF 2024, 11180 OF 2024,

11212 OF 2024, 11282 OF 2024

11735 OF 2024, 12912 OF 2024

IN CRL.P No. 11096/2024:

BETWEEN:

SRI DARSHAN
AGED ABOUT 47 YEARS,
S/O LATE TOOGUDEEPA SRINIVAS,
RESIDING AT NO.217,
TOOGUDEEPA NILAYA,
F ROAD, IDEAL HOME TOWNSHIP,
RAJARAJESHWARINAGAR,
BENGALURU - 560098.
(NOW UNDER DURESS AT THE
CENTRAL PRISON BALLARI)

...PETITIONER

(BY SRI. C.V. NAGESH, SR. COUNSEL FOR
SRI. SUNIL KUMAR S., ADV.)

AND:

THE STATE OF KARNATAKA
BY THE STATION HOUSE OFFICER,
KAMAKSHIPALYA POLICE STATION,
BENGALURU,
REPRESENTED BY SPECIAL PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560001.

...RESPONDENT

(SRI. P. PRASANNA KUMAR, SPP FOR RESPONDENT.)

THIS CRL.P IS FILED U/S 439 CR.P.C (U/S 483 BNSS)
PRAYING TO ENLARGE THE PETITIONER ON REGULAR BAIL IN
RELATION TO THE CASE IN CR.NO.250/2024 REGISTERED AT





**NC: 2024:KHC:51482
CRL.P No. 11096 of 2024
& SIX CONNECTED CASES**

KAMAKSHIPALYA P.S., BENGALURU, WHICH CULMINATED IN THE FILING OF A FINAL REPORT IN CC.NO.28777/2024, FOR THE OFFENCES WHICH ARE MADE P/U/S 120(B), 364, 384, 355, 302, 201, 143, 147, 148, 149 R/W 34 OF IPC, WHICH CASE IS PRESENTLY, PENDING ON THE FILE OF THE XXIV ACMM, BENGALURU.

IN CRL.P.NO.11176/2024

BETWEEN:

NAGARAJU R.
S/O RACHAIAH,
AGED ABOUT 41 YEARS,
R/AT NO.432, A & B BLOCK,
RAMAKRISHNA NAGAR, MYSURU - 570022
(NOW IN JUDICIAL CUSTODY)

...PETITIONER

(BY SRI. S.J. CHOUTA, SR. COUNSEL FOR
SRI. LAKSHMIKANTH G. ADV.)

AND:

STATE OF KARNATAKA
BY KAMAKSHIPALYA P. S.
(REPRESENTED BY SPECIAL PUBLIC PROSECUTOR,
HIGH COURT BUILDING, BENGALURU-560001.

...RESPONDENT

(SRI. P. PRASANNA KUMAR, SPP FOR RESPONDENT.)

THIS CRL.P IS FILED U/S 439 CR.P.C (U/S 483 BNSS) PRAYING TO ENLARGE THE PETITIONER/ACCUSED NO.11 ON REGULAR BAIL IN RELATION TO THE CASE IN CR.NO.250/2024 REGISTERED AT KAMAKSHIPALYA P.S., BENGALURU, FOR THE OFFENCES WHICH ARE MADE P/U/S 149, 201, 302, 34, 120B, 355, 143, 147, 148 OF IPC, WHICH NOW, PENDING ON THE FILE OF THE XXIV ACMM, BENGALURU IN C.C.NO.28777/2024.



NC: 2024:KHC:51482
CRL.P No. 11096 of 2024
& SIX CONNECTED CASES

IN CRL.P.NO.11180/2024

BETWEEN:

ANU KUMAR @ ANU,
S/O CHANDRAPPA,
AGED ABOUT 30 YEARS,
R/A BEHIND ANJANEAYA TEMPLE,
SIHINIRU HONDA, HOLALKERE ROAD,
CHITRADURGA, PIN CODE-577501

...PETITIONER

(BY SRI. RANGANATH REDDY R. ADV.)

AND:

STATE BY THE STATION HOUSE OFFICER,
KAMAKSHIPALYA POLICE STATION,
BANGALORE, REPRESENTED BY STATE
PUBLIC PROSECUTOR,
(HIGH COURT OF KARNATAKA)
PIN CODE - 560 001.

...RESPONDENT

(SRI. P. PRASANNA KUMAR, SPP FOR RESPONDENT.)

THIS CRL.P IS FILED U/S 439 CR.P.C (U/S 483 BNSS)
PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.250/2024
REGISTERED BY KAMAKSHIPALYA P.S. AND REGISTERED IN XXIV
A.C.M.M AT BENGALURU AND PENDING ON THE FILE OF THE
LEARNED 24TH A.C.M.M AT BENGALURU AS C.C.NO.28777/2024 FOR
THE OFFENCE P/U/S 120(b), 364, 384, 302, 201, 143, 147, 148,
149, 34 OF IPC.

IN CRL.P.NO.11212/2024

BETWEEN:

SRI. LAKSHMAN M.
S/O MARIYAPPA C.,
AGED ABOUT 55 YEARS,
PRESENTLY, R/AT NO.1354, 9TH MAIN,
HAMPI NAGAR, RPC LAYOUT,
VIJAYANAGAR, BENGALURU-560040.



**NC: 2024:KHC:51482
CRL.P No. 11096 of 2024
& SIX CONNECTED CASES**

PERMANENT RESIDENT OF
SHETTYHALLI VILLAGE,
MALAVALLI TALUK, MANDYA-571430.
(NOW IN J.C. AT SHIVAMOGGA)

...PETITIONER

(BY SRI. ARUNA SHYAM, SR. COUNSEL FOR
SRI. SUYOG HERELE E., ADV.)

AND:

THE STATE OF KARNATAKA
THROUGH KAMAKSHIPALYA P. S.
(REPRESENTED BY
LD. SPECIAL PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA BUILDING,
BENGALURU-560001.

...RESPONDENT

(SRI. P. PRASANNA KUMAR, SPP FOR RESPONDENT.)

THIS CRL.P IS FILED U/S 439 CR.P.C (U/S 483 BNSS)
PRAYING TO ENLARGE THE PETITIONER / ACCUSED NO.12 ON BAIL
IN CONNECTION WITH CR.NO.250/2024 REGISTERED BY
RESPONDENT KAMAKSHIPLAYA P.S. FOR THE OFFENCE P/U/S 120B,
364, 355, 384, 302, 201, 143, 147, 148, 149, 34 OF IPC WHICH IS
NOW PENDING ON THE FILE OF HON'BLE XXIV A.C.M.M BENGALURU
IN C.C.NO.28777/2024.

IN CRL.P.NO.11282/2024

BETWEEN:

SMT. PAVITRA GOWDA,
D/O PUTTANNA,
AGED ABOUT 33 YEARS,
R/AT NO.808, 24TH CROSS,
KENCHANAHALLI ROAD,
RR NAGAR, BENGALURU-560098.

...PETITIONER

(BY SRI. TOMMY SEBASTIAN, SR. COUNSEL FOR
SRI. MELANIE SEBASTIAN)



**NC: 2024:KHC:51482
CRL.P No. 11096 of 2024
& SIX CONNECTED CASES**

AND:

STATE OF KARNATAKA,
BY KAMAKSHIPALYA P. S., BENGALURU CITY,
BENGALURU - 560079
REPRESENTED BY SPECIAL PUBLIC PROSECUTOR,
(SRI. PRASANNA KUMAR)

...RESPONDENT

(SRI. P. PRASANNA KUMAR, SPP FOR RESPONDENT.)

THIS CRL.P IS FILED U/S 439 CR.P.C (U/S 483 BNSS)
PRAYING TO ORDER THE RELEASE THE PETITIONER ON BAIL IN
C.C.NO.28777/2024 ON THE FILE OF XXIV A.C.M.M COURT
REGISTERED FOR THE OFFENCE P/U/S 120B, 364, 384, 355, 302,
201, 143, 147, 148, 149 R/W 34 OF IPC ON THE BASIS OF THE
CHARGE SHEET FILED BY KAMAKSHIPALYA P.S. IN WHICH THE
PETITIONER IS ARRAYED AS ACCUSED NO.1

IN CRL.P.NO.11735/2024

BETWEEN:

JAGADEESH @ JAGGA
S/O RAJAPPA,
AGED ABOUT 36 YEARS,
R/A NEAR AJAD MILL AND
MARAMMA TEMPLE, NEHRU ROAD,
RAILWAY COLONEY,
CHITRADURGA, PIN CODE - 577501.

...PETITIONER

(BY SRI. RANGANATH REDDY R. ADV.)

AND:

STATE BY THE STATION HOUSE OFFICER,
KAMAKSHIPALYA POLICE STATION,
BANGALORE, REPRESENTED BY STATE
PUBLIC PROSECUTOR,
(HIGH COURT OF KARNATAKA)
PIN CODE-560001.

...RESPONDENT

(SRI. P. PRASANNA KUMAR, SPP FOR RESPONDENT.)



**NC: 2024:KHC:51482
CRL.P No. 11096 of 2024
& SIX CONNECTED CASES**

THIS CRL.P IS FILED U/S 439 CR.P.C (U/S 483 BNSS) PRAYING TO ENLARGE THE PETITIONER ON REGULAR BAIL IN CR.NO.250/2024 REGISTERED BY KAMAKSHIPALYA P.S., REGISTERED IN XXIV ACMM AT BANGALORE, PENDING ON THE FILE OF THE LEARNED 24th ACMM, BANGALORE, AS CC.NO.28777/2024, FOR OFFENCES P/U/S 120(B), 364, 384, 355, 302, 201, 143, 147, 148, 149, 34 OF IPC.

IN CRL.P.NO.12912/2024

BETWEEN:

MR. PRADOOSH S RAO @ PRADOOSH
S/O SUBBARAO,
AGED ABOUT 40 YEARS,
R/O. HOUSE NO.56, JP ROAD,
GIRINAGAR, BANGALORE - 560085.
(PETITIONER PRESENTLY IN
JUDICIAL CUSTODY)

...PETITIONER

(BY SRI. K.DIWAKARA, SR. COUNSEL FOR
SRI. ADITYA D., ADV.)

AND:

STATE BY KAMAKSHIPALYA POLICE,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU-560001.

...RESPONDENT

(SRI. P. PRASANNA KUMAR, SPP FOR RESPONDENT.)

THIS CRL.P IS FILED U/S 439 CR.P.C (U/S 483 BNSS) PRAYING TO ENLARGE THE PETITIONER ON BAIL IN S.C.NO.1319/2024 IN CR.NO.250/2024 OF THE KAMAKSHIPALYA POLICE FOR THE OFFENCE P/U/S 120B, 143, 147, 148, 149, 201, 302, 34 OF IPC PENDING ON THE FILE OF THE HON'BLE LVI ADDL. CITY CIVIL AND SESSIONS JUDGE AT BENGALURU.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 09.12.2024 AND COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE COURT, MADE THE FOLLOWING:



CORAM: HON'BLE MR JUSTICE S VISHWAJITH SHETTY

CAV ORDER

(PER: HON'BLE MR JUSTICE S VISHWAJITH SHETTY)

1. Accused nos.1, 2, 6, 7, 11, 12 & 14 in Crime No.250/2024 registered by Kamakshipalya Police Station, Bengaluru City, for the offences punishable under Sections 120B, 364, 384, 355, 302, 201, 143, 147, 148, 149, 34 IPC, are before this Court in the above captioned criminal petitions filed under Section 439 Cr.PC. seeking regular bail.

2. Heard the learned Counsel for the parties.

3. FIR in Crime No.250/2024 was registered by Kamakshipalya Police Station, Bengaluru City, against unknown persons initially for the offences punishable under Sections 302 & 201 IPC on the basis of the first information dated 09.06.2024 received from Keval Ran Dorji - Security Officer of Sattva Anugraha Apartments, Summanahalli, Bengaluru, after the dead body of a unknown male aged about 30 to 35 years which had injuries on it was found on the road side besides a drainage in front of Sattva Anugraha Apartment complex. During the course of investigation of the case, accused nos.1,



2, 11, 12 & 14 were arrested on 11.06.2024 and accused nos.6 & 7 were arrested on 14.06.2024. Subsequently, the aforesaid arrested accused were produced before the Court and remanded to judicial custody. Investigation in the case is completed and charge sheet has been filed against 17 accused persons. Petitioners herein are arrayed as accused nos.1, 2, 6, 7, 11, 12 & 14 in the charge sheet. Bail applications filed by the petitioners before the Court of LVI Addl. City Civil & Sessions Judge, Bengaluru, in Crl. Misc. Nos.8580/2024, 8770/2024, 9126/2024, 8812/2024, 8799/2024, 8798/2024, 9120/2024 were rejected, and therefore, they are before this Court.

4. Sri C.V.Nagesh, learned Senior Counsel appearing on behalf of accused no.2 has raised the following contentions:

- Though the dead body of a unknown male was found on the morning of 09.06.2024 itself, no inquest proceedings was held nor was the post-mortem of the dead body conducted till 11.06.2024.
- The allegation that accused nos.4, 6, 7 & 8 had kidnapped Renukaswamy on 08.06.2024 with an intention to commit his murder cannot be believed having regard to the statements of CW-7 -



Kashinathaiah - father of deceased during the inquest proceedings, CW-8 - Smt. Rathnaprabha - mother of the deceased dated 14.06.2024 and CW-122 - Manjunath - Cashier of Bar & Restaurant dated 20.08.2024, wherein the deceased on his way from Chitradurga to Bengaluru along with accused nos.4, 6, 7 & 8 had purchased liquor and had paid for the same.

- Panchanama dated 12.06.2024 relating to seizure of weapons used to commit the crime becomes doubtful having regard to the statement of CW-69 - Narendra Singh, the confession statement of accused nos.4, 15 & 17 who were arrested on 10.06.2024, statement of CW-132 - Vinay - Police Sub-Inspector of Kamakshipalya Police Station, since the aforesaid statements indicate that possession of scene of offence was taken over by the police much prior to the panchanama dated 12.06.2024.
- The weapons used for committing the offence are viz., nylon rope measuring 4 feet long, two twigs of a tree and a wooden laati and no blood stains were found on the twigs.
- Referring to the voluntary statement of accused no.2 and the recovery panchanama dated 14.06.2024 under which his shoes and dress which



were worn by him on the date of crime, he submits that item mentioned in the voluntary statement and the item mentioned in the recovery mahazar differs.

- Prosecution has relied on the evidence of CW-80, CW-98 & CW-99 for establishing conspiracy, but their statement do not in any way indicate that there was conspiracy by the accused prior to the crime.
- CW-69, CW-77, CW-78 & CW-79 are not eye-witnesses to the crime and they have not spoken about the role of accused no.2 in the crime.
- There is an inordinate delay in recording the statements of the alleged eye-witnesses CW-76 - Kiran and CW-91 - Puneeth, which is not explained. The material on record would go to show that they were very much available in Bengaluru and their presence at the spot of crime was mentioned by accused no.3 in his confession statement. In the statement of CW-91 recorded under Sections 161 & 164 Cr.PC, he has not stated that he was not available in Bengaluru from the date of crime till 20.06.2024, but in his further statement recorded on 02.10.2024, the prosecution has sought to explain his absence in Bengaluru for the said period. The statements of alleged eye-witnesses



CW-76 & CW-91 differ with regard to the role of the accused persons with regard to the alleged overt act by the accused persons. In the remand application dated 22.06.2024, no mention is made about the recording of the statement of aforesaid alleged eye-witnesses CW-76 & CW-91 which is the requirement of law in view of Sections 167 & 172 Cr.PC.

5. In support of his arguments, he has relied on the judgment of the Division Bench of this Court in Crl.A.No.940/2012 (State of Karnataka Vs Ramaswamy & others) disposed of on 03.04.2018 and in the case of **SHAILESH KUMAR VS STATE OF U.P. (NOW STATE OF UTTARAKHAND) - 2024 SCC OnLine SC 203**. In support of the argument regarding delay in recording the statements, he has relied upon the judgment of the Hon'ble Supreme Court in the case of **SHAHID KHAN VS STATE OF RAJASTHAN - (2016)4 SCC 96** and **HARBEER SINGH VS SHEESHPAL & OTHERS - (2016)16 SCC 418**.

6. Sri Sandesh Chouta, learned Senior Counsel appearing for accused no.11 has raised the following contentions:



- Remand of all the accused persons in the case is bad in law since grounds of arrest was not served on them.
- The order sheet of the committal court does not reflect about service of grounds of arrest on the accused at any point of time. The documents which were served on accused no.11 cannot be considered as compliance of the requirement of Section 50(1) of Cr.PC and Article 22(1) of the Constitution of India.
- The check list under Section 41(B)(II) of Cr.PC was served on the accused persons for the first time on 09.10.2024 along with a memo by the learned Special Public Prosecutor and even the said document cannot be considered as grounds of arrest. Even if it is considered as grounds of arrest, the same is served much after the accused were arrested and remanded to custody.
- Referring to the check list dated 11.06.2024 issued under Section 41(B)(II) of Cr.PC, it is contended that genuineness of the said documents becomes seriously doubtful since it bears the signature of CW-76 - Kiran whose statement under Section 161 Cr.PC was recorded on 15.06.2024 and this witness has not spoken about his presence in the police



station on 11.06.2024 or at the time of arrest of the accused on 11.06.2024.

- The check list issued under Section 41(B)(II) Cr.PC, which according to the prosecution is the grounds of arrest is a cyclostyled copy and this document is served on all the accused persons, whereas the grounds of arrest should contain material which is personal to the accused.
- Failure to serve the grounds of arrest in writing to the arrested accused entitles the accused for bail.
- Referring to the statement of the eye-witnesses, it is contended that the allegation against accused no.11 is that he had slapped the deceased on his face. Accused no.11 has no other criminal antecedents.
- In the articles which accused no.11 was wearing on the date of incident, no blood stains were found as per the recovery mahazar, but in the FSL report, there is a mention of blood stains on the said articles.
- Referring to the statement of CW-92, it is contended that it becomes highly doubtful that CW-91 was an eye-witness to the crime since CW-91 had not disclosed anything to CW-92 when he had



called him in the evening of 08.06.2024 and informed him that the person who had come inside the Intact Autopark India Pvt. Ltd., had fallen down after loosing conscious and he was shifted to hospital.

- From an overall appreciation of the material evidence, it cannot be said that the accused persons had intention to commit the murder of the deceased. No deadly weapons were used and there was absolutely no preparation by the accused. There is no evidence to show that death has occurred inside Intact Autopark India Pvt. Ltd.

7. In support of his arguments, he has placed reliance on the judgments of the Hon'ble Supreme Court in the case of **PANKAJ BANSAL VS UNION OF INDIA - (2024)7 SCC 576** and **PRABIR PURKAYASTHA VS STATE (NCT OF DELHI) - (2024)8 SCC 254.**

8. Sri Tomy Sebastian, learned Senior Counsel appearing on behalf of accused no.1 has raised the following contentions:

- The only allegation against her is that she had gone to the spot of crime along with accused no.2 and had slapped on the face of deceased with her chappal.



- Deceased was assaulted by other accused prior to the arrival of accused no.1 at the spot of crime and also after she had left the spot of crime. It is only as a result of cumulative assault, death appears to have occurred.
- From a overall reading of the material on record, prima facie it appears that there was no motive or intention to commit the murder.
- Accused no.1 is a married lady having a grown up daughter studying in 9th Standard. She is in custody for the last nearly six months.

9. Sri Arun Shyam, learned Senior Counsel appearing on behalf of accused no.12 having reiterated the arguments addressed by the earlier learned Counsels, has raised the following contentions:

- The allegation against accused no.12 is that he had assaulted the deceased with hand. CW-76 who is an eye-witness has not spoken about the role of accused no.12, whereas only CW-91 speaks about the role of accused no.12. CW-76 - Kiran is a signatory to the arrest memo allegedly served on accused no.12 who was arrested on 11.06.2024.



- If the arrest memo has to be believed, then the delay in recording the statement of alleged witness CW-76 - Kiran becomes fatal to the case of the prosecution. On the contrary, since the statement of CW-76 - Kiran was recorded on 15.06.2024, it becomes highly doubtful that on 11.06.2024 the arrest memo was served on accused no.12 since it bears the signature of CW-76 - Kiran.
- The prosecution in all has cited 262 charge-sheet witnesses, and therefore, chances of trial being completed in the near future is very remote.

10. Sri Ranganath, learned Counsel appearing on behalf of accused nos.6 & 7 has raised the following contentions:

- The statement of charge-sheet witnesses would only go to show that accused no.3 had instructed accused no.4 to bring Renukaswamy to Bengaluru only for the reason that he had sent obscene messages and videos to accused no.1, and therefore, he needs to be taught a lesson.
- Nobody has stated that with an intention to commit his murder, Renukaswamy was brought to Bengaluru by accused nos.6 & 7 along with accused nos.4 & 8.
- Accused nos.6 & 7 had not conspired with any other accused persons and had not even spoken to



accused no.3 prior to they reaching Bengaluru. Therefore, the allegation of conspiracy invoking 120B IPC and allegation of kidnapping deceased with an intention to commit his murder invoking Section 364 IPC cannot be sustained.

- Both the eye-witnesses viz., CW-76 & CW-91 have not made any allegation against the petitioners about assaulting the deceased in their statements recorded under Section 164 Cr.PC.
- Deceased had only one lacerated wound on his forehead from which blood would have been oozed out and in the recovery mahazars prepared by the police, most of articles did not have any blood stains, but in the FSL report almost all articles seized are found to be blood stained, which in normal circumstances, is highly improbable.
- Accused nos.6 & 7 do not have any criminal antecedents.

11. Sri K.Diwar, learned Senior Counsel appearing on behalf of accused no.14 has raised the following contentions:

- According to the prosecution, accused no.14 had initially contacted CW-132 - Vinay - Sub-Inspector of Police, Kamakshipalya Police Station, and had informed about the alleged incident.



- Accused no.2 had allegedly given a sum of Rs.30 lakhs to accused no.14 for distribution to the accused persons who had participated in the crime, but the entire amount of Rs.30 lakhs has been recovered in the present case from the residence of accused no.14.
- The allegation against accused nos.13 & 14 are similar and accused no.13 has been granted regular bail by the jurisdictional Sessions Court.

12. Sri P.Prasanna Kumar, learned Special Public Prosecutor appearing for the respondent has contended as under:

- The conduct of accused no.2 disentitles him of any relief to him by this Court. Though this Court had granted interim bail to accused no.2 on medical grounds to enable him to undergo surgery of his spine, till date he has not undergone any surgery.
- The prosecution during the course of investigation has collected more than sufficient material to connect all the accused persons to the crime in question.
- The charge sheet material clearly demonstrates that the accused persons had conspired to commit the murder of Renukaswamy and in furtherance of such conspiracy as per the instructions of accused



no.3 who is working in the house of accused nos.1 & 2, accused nos.4, 6 & 7 had brought the deceased in the car of accused no.8 to Bengaluru and had taken him to a shed at Pattanagere, wherein initially accused nos.3 to 7 & 9 had assaulted Renukaswamy with weapons. Thereafter, accused no.3 had approached accused no.2 and informed him that deceased Renukaswamy was kept in the shed at Pattanagere. Accused no.2, thereafter picked up accused no.1 from her house and after arriving at the spot of crime, Renukaswamy was once again assaulted by accused nos.1 to 7, 9 to 12 & 14.

- Accused nos.4, 6 & 7 on instructions of accused no.3 had deceitfully induced the deceased to travel with them from Chitradurga to Bengaluru, and therefore, the offence punishable under Section 364 IPC is clearly established in the present case.
- The charge sheet witnesses CW-69, 76, 77, 78, 79 & 91 have spoken about the role of accused persons and CWs-76 & 91 are the eye-witnesses to the incident who have clearly spoken about the role of each of the accused in the present case.
- The deceased was brutally assaulted and he had sustained 39 injuries on his body as reflected in the



post-mortem report. 17 ribs of the deceased were found to be fractured.

- The doctor who has conducted the post-mortem has given the report dated 23.08.2024, wherein it is mentioned that blood was oozing out of 13 injuries which was found in the body of the deceased and not from one injury as sought to be contended by the learned Counsel for the petitioners.
- The movement of accused nos.1 & 2 has been captured in the CCTV in the house of accused no.1 and their subsequent movement in the car to the spot of crime is also captured in the CCTV.
- The clothes and articles of the accused persons which were recovered from their residence were forwarded to Forensic Science Laboratory for examination and the FSL report would go to show that the clothes and other articles which the accused persons were wearing on the date of the incident had blood stains on them.
- In addition to the recovery of weapons used to commit the crime from the spot of crime, huge amount of money which was distributed by accused no.2 for the purpose of litigation and other expenses has been recovered in the present case.



- Though there is a delay in recording the statement of the eye-witnesses in the present case, the same has been satisfactorily explained by the prosecution by recording the further statement of the said witnesses.
- Recovery from the accused has been made in furtherance of their statement and whatever statement made by the accused is found in the panchanama. The discrepancy, if any, in the confession statement of the accused and in the panchanama is of no consequence.
- The prosecution has collected CDR details of the accused which is a vital piece of evidence and merely for the reason that accused persons are known to each other, the evidentiary value of CDR details does not lose its credence.
- Charge sheet has been filed against the accused persons invoking Section 149 IPC, and therefore, each one of the accused are liable to be held guilty for the crime committed in this case.
- The accused persons have deleted their conversations and video recordings from the mobile phone and also have washed their clothes and tried



to destroy the evidence which clearly attracts the offence punishable under Section 201 IPC.

- Referring to an article published on 13.08.2021 by National Research Centre under the heading "Human identification from washed blood stains", it is contended that even after washing of clothes using detergent/soap, blood stains can be found in the said clothes.
- Grounds of arrest has been served on all the accused immediately after they were arrested and there is complete compliance of the requirement of the judgment of the Hon'ble Supreme Court in Prabir Purkayastha's case supra.
- The prosecution was not aware that the persons who have signed the grounds of arrest were material witnesses in the present case and only subsequently this aspect of the matter has come to the notice of the prosecution, and therefore, there is delay in recording the statement of the said witnesses though their signature is found in the grounds of arrest served on the accused persons.
- The accused persons are all influential persons and in the event they are enlarged on bail, chances of they tampering with the charge sheet witnesses cannot be ruled out.



- In addition to the eye-witnesses, even the circumstantial evidence clearly establishes a prima facie case against the accused persons. Petitioners have committed a heinous offence and if they are enlarged on bail, a wrong message will be sent to the Society.

13. In support of his arguments, he has placed reliance on the judgments of the Hon'ble Supreme Court in the case of **JAFARUDHEEN & OTHERS VS STATE OF KERALA - (2022)8 SCC 440, SIDHARTHA VASHISHT VS STATE - (2010)6 SCC 1, BABU SAHEBGUDA RUDRAGAUDAR VS STATE OF KARNATAKA - (2024)8 SCC 149**, and the judgment of the Division Bench of this Court in the case of **KUM. SHUBHA @ SHUBHASHANKAR VS STATE OF KARNATAKA - CRL.A.No.722/2010** & connected cases.

14. In response to the submissions made by the learned Special Public Prosecutor about the medical condition of accused no.2 and his conduct after he was granted interim bail, learned Senior Counsel C.V.Nagesh has made the following submissions:



- Accused no.2 has not violated any one of the conditions imposed by this Court while granting him interim bail.
- The medical records of accused no.2 on which this Court had placed reliance while granting interim bail was produced by the Special Public Prosecutor on behalf of the State.
- Referring to the medical reports issued by Gleneagles BGS Hospital, Kengeri, Bengaluru, where accused no.2 has been undergoing treatment subsequent to his release on interim bail, it is submitted that medical records of accused no.2 which were issued by Ballari Medical College and Research Centre dated 22.10.2024 on the basis of which interim bail was granted to the petitioner, was seen by the Specialist Doctor at BGS Hospital, Bengaluru, and the diagnosis made earlier is confirmed based on further medical evaluation.
- Referring to the medical reports from BGS Hospital dated 06.11.2024, 21.11.2024, 02.12.2024 and 05.12.2024, it is submitted that accused no.2 has been regularly undergoing physiotherapy and he is being prepared for the surgery, and the doctors at BGS Hospital have opined that these are temporary measures and surgery remains the necessary step



to address the underlying condition of accused no.2 effectively.

- In the medical report dated 02.12.2024, the doctors of BGS Hospital, have mentioned that accused no.2 needs to undergo "lumbar decompression and fusion" which is planned on 11.12.2024.
- It is for the doctors to decide as to when the surgery has to be done and what kind of treatment has to be given to the patient and it is not for accused no.2 to decide the same. The treatment undergone by accused no.2 till date at BGS Hospital, has been mentioned therein which is self-explanatory.

15. Accused no.2 had filed IA-1/2024 seeking interim bail on medical grounds. This Court had directed the prosecution to produce the medical report of accused no.2 who was lodged in Ballari Jail. Pursuant to the same, the Special Public Prosecutor had placed on record the medical report of accused no.2 issued by the Head of Department of Neurosurgery, Ballari Medical College and Research Centre, Ballari, which stated that considering the medical condition of accused no.2, he is required to undergo surgery in a Super Speciality Hospital and



the hospital at Ballari does not have requisite facility to perform the surgery. It is in this background, accused no.2 was granted interim bail subject to certain conditions.

16. Accused no.2, who thereafter, was admitted in BGS Hospital, Kengeri, Bengaluru, for his treatment, has submitted periodical medical reports before this Court in compliance of the conditions imposed while granting interim bail, which prima facie, would go to show that he is undergoing treatment subsequent to his release on interim bail and the medical reports dated 06.11.2024, 21.11.2024, 02.12.2024 and 05.12.2024 would indicate that accused no.2 has been undergoing physiotherapy and he is being prepared for the surgery, and the doctors at BGS Hospital, Bengaluru, who have confirmed the medical report dated 22.10.2024 issued by Ballari Medical College and Research Centre on the basis of which interim bail was granted to accused no.2, have opined that the treatment now undergone by accused no.2 are temporary measures and surgery remains the necessary step to address the underlying condition of accused no.2 effectively. Therefore, at this stage, this Court has no reason to disbelieve the medical condition of accused no.2 having regard to the



reports received from the Ballari Medical College and Research Centre, Ballari, and BGS Hospital, Bengaluru.

17. The parameters for consideration of regular bail application on its merits and the parameters for considering the bail application on medical records, are totally different. The consequences of suppression, misrepresentation or making misleading statement, if any, before this Court, will always take its own recourse.

18. The gist of the case of the prosecution as found in the charge sheet is as under:

Deceased Renukaswamy who had an Instagram account in the name of Gautam.K.S., was sending obscene messages to accused no.1 - Pavithra Gowda on her Instagram account from the month of February 2024 onwards. On 03.06.2024, accused no.1 asked for the mobile phone number of deceased during chatting with Renukaswamy on Instagram. Accordingly, Renukaswamy had provided accused no.1 his mobile phone number. Accused no.1 gave the mobile phone number of accused no.3 to Renukaswamy stating that the said number belongs to her and asked Renukaswamy to chat with her on



that mobile phone number on whatsapp. Accused no.1 allegedly had informed accused no.3 who was working in the house of accused nos.1 & 2 about the derogatory and obscene messages forwarded by Renukaswamy. After deceased spoke to accused no.1 on the mobile number furnished by her, she also asked him to furnish the location of his house. This was informed by accused no.3 to accused no.2 who inturn instructed accused no.3 to secure deceased for the purpose of teaching him a lesson. The deceased had informed accused no.1 on the mobile phone of accused no.3 that on 07.06.2024, he was near the court premises at Chitradurga. This was informed by accused no.3 to accused nos.4, 6 & 7 who went in search of Renukaswamy near the court premises but could not find him on the said date. On 08.06.2024 since Renukaswamy had shared his residential address with accused no.3 believing it to be accused no.1, accused no.3 informed accused no.4 about the location and address of deceased, and thereafter, accused nos.4, 6 & 7 followed deceased and at about 10.00 a.m. they picked up him at J.C.Circle, Chitradurga, and brought him to Bengaluru in the car belonging to accused no.8. As per the instructions of accused no.3, accused nos.4, 6 & 7 brought



Renukaswamy to the shed belonging to Intact Autopark India Pvt. Ltd., at Pattanagere, and thereafter, accused nos.3, 5 & 9 also came to the aforesaid shed and they along with accused nos.4, 6 & 7 assaulted Renukaswamy with two twigs of a tree, wooden laati and nylon rope. Accused no.9 allegedly also tortured him by giving electric shock. Thereafter, accused no.3 went to Stoney Brook Restaurant, where accused no.2 was having his lunch along with accused nos.10, 11 & 14 and informed accused no.2 that Renukaswamy was brought to Bengaluru and he was in the shed at Pattanagere. Accused no.2, thereafter, picked up accused no.1 from her house and along with accused nos.10 & 14 came to the shed at Pattanagere. Accused nos.3 & 11 also came to the said shed and in furtherance of the alleged conspiracy, accused nos.1 to 7, 9 to 12 & 14, allegedly assaulted the deceased brutally by using the aforesaid two twigs of a tree, wooden laati and nylon rope, and as a result of the said assault, Renukaswamy had died. Accused nos.1, 2 & 10 allegedly left the scene of crime thereafter, and as per the instructions of accused no.2, the other accused who was present there made arrangements to dispose of the dead body. Accused no.2 allegedly gave a sum of



Rs.10 lakhs to accused no.10 who in turn through accused no.13 conspired with accused nos.14 to 17 to confess to the crime and surrender before the police. Thereafter, accused nos.4, 6 to 8, 10 to 12, 14, 15 & 17 disposed of the dead body near Sattva Apartment, which was found by the first informant on the morning of 09.06.2024.

19. FIR was, thereafter, registered against unknown persons by Kamakshipalya Police Station for the offences punishable under Sections 302 & 201 IPC, and on 10.06.2024, accused nos.4, 15, 16 & 17 surrendered before the police in furtherance of their conspiracy with the other accused persons. During the course of interrogation of the surrendered accused, the Investigating Officer allegedly came to know about the conspiracy and the role of the other accused persons who were involved in the crime. Thereafter, on 11.06.2024, the Investigating Officer arrested accused nos.1, 2, 3, 5 & 10 to 14. Accused no.8 surrendered before the Deputy Superintendent of Police, Chitradurga, on 13.06.2024, and accused nos.6 & 7 surrendered at Chitradurga on 14.06.2024. Accused no.9 was arrested at Bengaluru on 15.06.2024. Investigation of the case was completed and charge sheet was filed against 17 persons



and petitioners herein are arrayed as accused nos.1, 2, 6, 7, 11, 12 & 14 in the charge sheet.

20. The accused have been charge sheeted for the offences punishable under Sections 120B, 364, 384, 355, 302, 201, 143, 147, 148, 149, 34 IPC. The major offences alleged in the charge sheet are the offences punishable under Sections 364 & 302 IPC. Section 364 IPC provides for punishment to the accused who kidnaps or abducts a person in order to commit his murder. Section 364 IPC reads as under:

"364. Kidnapping or abducting in order to murder.- Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with imprisonment for life or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine."

21. For the purpose of attracting the offence under Section 364 IPC, the accused should have kidnapped a person intending or knowingly it to be likely that the person kidnapped may be murdered or may be so disposed of as to put in danger of being murdered, or otherwise, the accused by force should



have compelled the person or by deceitful means induced the person to go from any place.

22. In the case on hand, since deceased Renukaswamy was sending derogatory and obscene messages to accused no.1 in the name of Goutham.K.S., and therefore, a trap was successfully laid by accused nos.1 & 3 to know the actual person who was sending the derogatory messages, and thereafter, the place of residence and the actual location of the person who had sent the derogatory messages was verified and on instructions of accused no.3 who is the employee of accused nos.1 & 2, accused no.4 who is the President of Fans' Club of accused no.2 in Chitradurga, had approached Renukaswamy along with accused nos.6 & 7 and asked him to accompany them to Bengaluru since accused no.2 intended to speak to him as he was sending derogatory messages to accused no.1 who allegedly is the girl friend of accused no.2. Renukaswamy who had left his house on the morning of 08.06.2024 had accompanied accused nos.4, 6 & 7 in the car of accused no.8 to Bengaluru as he was informed by accused no.4 that accused no.2 intends to speak to him and he inturn needs to apologize



and seek pardon from accused nos.1 & 2 for the act committed by him.

23. The statement of CW-7 - father of Renukaswamy found in the inquest mahazar and statement of CW-8 - mother of Renukaswamy, goes to show that when they contacted Renukaswamy who was on his way to Bengaluru along with accused nos.4, 6, 7 & 8, he had informed them that he was going out along with his friends and he would not be coming home for lunch. The material on record would to show that on the way from Chitradurga to Bengaluru, on Bengaluru-Tumakuru Highway, Renukaswamy had purchased liquor from Durga Bar & Restaurant and also had paid a sum of Rs.640/- for the same using his Phonepe. The CCTV footage in the Bar & Restaurant reflects that all the inmates of the car which was driven by accused no.8 had gone to the Bar & Restaurant for the purpose of purchase of liquor. After reaching Bengaluru, as per the instructions of accused no.3, Renukaswamy was brought to the shed belonging to accused no.10 situated at Pattanagere within the limits of Rajarajeshwarinagar Police Station, Bengaluru. In the said shed, accused nos.3 to 7 & 9 had allegedly abused and thereafter assaulted Renukaswamy



with two twigs of a tree, one wooden laati and a nylon rope. Thereafter, accused no.3 had gone to the place where accused no.2 was having his lunch along with his friends and informed him that Renukaswamy was brought to the shed at Pattanagere. Accused no.2 intturn had gone to the house of accused no.1 and after picking her, he had gone to the shed at Pattanagere along with accused no.14. Thereafter, accused nos.2 to 7, 9 to 12 & 14 had all assaulted Renukaswamy with the aforesaid four weapons and also with their hands and legs. Accused no.1 allegedly had slapped Renukaswamy with her chappal and accused no.2 who was wearing shoe allegedly had kicked on the chest of Renukaswamy. It is also alleged that accused no.9 with the help of a electric shock torch (Meggar) had given shock treatment to Renukaswamy. As a result of the cumulative assault made by the aforesaid accused, Renukaswamy had died and subsequently, his dead body was shifted by accused nos.4, 6 to 8, 10 to 12, 14, 15 & 17 to the place where it was found on 09.06.2024 by the first informant, and thereafter, accused nos.4 & 15 to 17 had surrendered before the police on 10.06.2024.



24. From the nature of weapons used by the accused persons to assault the deceased, it cannot be said that they had prepared themselves to assault Renukaswamy and commit his murder. Therefore, whether the accused persons really had the intention to commit the murder of Renukaswamy would be a question that may have to be considered by the Trial Court during the course of trial. Since Renukaswamy had voluntarily accompanied accused nos.4, 6, 7 & 8 to Bengaluru and on the way he had informed his parents that he was with his friends and he would not be coming home to have lunch, and further on the way to Bengaluru, he along with the inmates of the car had gone to a Bar & Restaurant and had purchased liquor, the question whether Renukaswamy was kidnapped or abducted for the purpose of committing his murder also arises for consideration, which needs to be thrashed out in the full-fledged trial before the Trial Court.

25. According to the prosecution, CWs-69, 76, 77, 78, 79 & 91 are the prime witnesses in the present case who speak about the role of the accused persons in the alleged crime. CWs-69, 77 to 79 are not the eye-witnesses to the alleged assault made by accused nos.1 to 7, 9 to 12 & 14. These



witnesses have only spoken about Renukawamy being brought to the shed and also about the other accused persons subsequently arriving near the spot of crime. The statement of these witnesses have been recorded between 13.06.2024 and 15.06.2024.

26. CWS-76 & 91 are the alleged eye-witnesses who have spoken to about the overt acts of the accused who allegedly have assaulted Renukaswamy. Statement of CW-76 under Section 161 of Cr.PC was recorded on 15.06.2024 and his statement under Section 164 of Cr.PC was recorded on 22.06.2024. The statement of CW-91 under Section 161 of Cr.PC was recorded on 20.06.2024 and his statement under Section 164 of Cr.PC was recorded on 21.06.2024. In the relevant remand applications, no mention is made about recording of the statement of the alleged eye-witnesses. The statements of eye-witnesses relating to the overt acts of the accused suffers from contradictions.

27. CWS-69, 76 to 79 & 91 were all working within the compound of the shed at Pattanagere in various capacities. A reading of the statement of CW-69 who is the security guard of



the property in which the shed in question is located, would clearly go to show that the police had taken custody of the said premises on 11.06.2024 (i.e., Tuesday) and they had locked the same. However, the statement of the aforesaid witnesses who were working in the property in question at Pattanagere under various capacities have been belatedly recorded by the police. The presence of CWs-76 & 91 at the spot of crime has been spoken to by CWs-69, 77, 78 & 79 and even accused no.4 during the course of his confession had spoken to about the presence of these witnesses near the spot of crime. CW-76 - Kiran is also a signatory to the memo of grounds of arrest of accused nos.12 & 13 who were arrested on 11.06.2024. If CW-76 - Kiran had signed the memo of grounds of arrest of accused nos.12 & 13 on 11.06.2024, then the prosecution needs to explain the inordinate delay in recording the statement. The prosecution has recorded the further statements of CWs-76 & 91 belatedly after a period of more than two months in order to explain the reason for the delay in recording the statements of the said witnesses under Section 161 of Cr.PC. The worthiness and validity of such explanation sought to be given by the prosecution for belatedly recording



the statements of the eye-witnesses is an issue which again needs consideration by the Trial Court based on the evidence placed before it.

28. In Sidhartha Vashishta's case *supra*, it has been held that when identification of witnesses and interrogation consumes time, delay in recording statement itself cannot be treated as fatal to the case of the prosecution. The delay can be explained and the court must assess whether such explanation is acceptable during the course of trial.

29. Further, though the prosecution has alleged that the accused persons had conspired to commit the murder of Renukaswamy and in furtherance of such conspiracy he was kidnapped or abducted from Chitradurga and brought to Bengaluru, none of the witnesses have spoken to about the alleged conspiracy. CWS-80, 98 & 99 are the witnesses, who according to the prosecution speak about the alleged conspiracy. But a reading of the statement of these witnesses do not *prima facie* reveal that there was any such conspiracy by the accused as alleged.



30. The prosecution, in addition to the statements of the alleged eye-witnesses, has also strenuously placed reliance on the circumstantial evidence, which according to the prosecution, clearly connects the accused persons to the alleged crime. According to the prosecution, blood stains were found in the weapons used to commit the crime and also in the clothes, shoes and chappal which the accused persons were wearing at the time of committing the crime. Perusal of the recovery panchanamas would go to show that in most of the articles which were forwarded to the Forensic Science Laboratory for examination, blood stains were not initially found. However, in the FSL report, it is stated that even in the articles and weapons in which blood stains were not initially found while subjecting them to panchanamas, blood stains were found. The post-mortem report of the deceased would reveal that he had suffered totally 39 injuries on his body. Injury no.1 which is a laceration measuring 2.5 cm x 1 cm x bone deep present over left temporo parietal region, is the only blood oozing injury as found in the post-mortem report, and therefore, it was strenuously contended on behalf of the accused that it is highly improbable that from a small lacerated



wound as found in the post-mortem report blood would have poured sufficient to stain the weapons, clothes, shoes and chappal of all the accused persons.

31. The prosecution, however, has relied upon the further opinion of the doctor wherein it is stated that 13 injuries out of 39 injuries were blood oozing injuries. The post-mortem report is dated 11.06.2024, whereas the further opinion of the doctor is dated 23.08.2024. According to the learned Counsel for the accused, since the further opinion which is belatedly given by the doctor is contrary to the post-mortem report, the same is of no significance. The said aspect of the matter needs to be considered by the Trial Court and this Court cannot appreciate this aspect of the matter since this Court cannot hold a mini trial while considering the bail application of the accused.

32. The prosecution has also placed reliance on the seizure of the weapons from the spot of crime under seizure mahazar dated 12.06.2024. As observed earlier, a reading of the statement of CW-69 recorded on 13.06.2024 would go to show that the police had arrived at the spot of crime on 11.06.2024 (i.e., Tuesday) itself and they had locked the premises on the



said date. The confession statement of accused no.4 that was recorded on 10.06.2024 discloses that he had revealed the spot of crime to the police, and thereafter some of the accused were even arrested on 11.06.2024 itself. The weapons used to commit the crime were seized from open area and they were not concealed. In view of the aforesaid, at this stage, much importance cannot be attached to the recovery of weapons from the scene of crime allegedly used to commit the crime.

33. Though learned Counsel for accused no.2 has strenuously contended that confession statement of accused no.2 would go to show that accused no.2 was wearing chappal at the time of crime and what is allegedly recovered at his instance is his shoes, much importance cannot be given to the same at this stage since recovery is as per the statement of the accused which is found in the recovery mahazar.

34. The prosecution, in addition to the statement of eye-witnesses, has also placed reliance on the circumstantial evidence including CDRs and the location of the mobile phones of the accused persons at the time and date of crime, etc. A detailed analysis of all these circumstantial evidence cannot be



made by this Court at this stage as the same would have an impact on the trial of the case.

35. In the case of **KANWAR SINGH MEENA VS STATE OF RAJASTHAN & ANOTHER - (2012)12 SCC 180**, the Hon'ble Supreme Court has observed that testing the credibility of the statement made by the witness is function of the Trial Court and it would not be appropriate to go in depth with the evidence at the stage of consideration of bail.

36. In the case of **SATISH JAGGI VS STATE OF CHHATTISGARH & OTHERS - (2007)11 SCC 195**, the Hon'ble Supreme Court has observed that at the stage of granting of bail, the court can only go into the question of prima facie case established for grant of bail. It cannot go into the question of credibility and reliability of the witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during the trial.

37. The Hon'ble Supreme Court in the case of **LT. COL. PRASAD SHRIKANT PUROHIT VS STATE OF MAHARASHTRA - (2018)11 SCC 458**, in paragraph 31 has observed as under:



"31. At the stage of granting bail, a detailed examination of evidence and elaborate documentation of the merits of the case has not to be undertaken. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused."

38. In the case of **SANJAY CHANDRA VS CENTRAL BUREAU OF INVESTIGATION - (2012)1 SCC 40**, the Hon'ble Supreme Court in paragraph 21 to 23 has observed as under:

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.



22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson."



39. In the case of **SATENDAR KUMAR ANTIL VS CENTRAL BUREAU OF INVESTIGATION & ANOTHER - (2022)10 SCC 51**, the Hon'ble Supreme Court in paragraphs 93 & 94, has observed as under:

"93. The rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice.

94. Criminal courts in general with the trial court in particular are the guardian angels of liberty. Liberty, as embedded in the Code, has to be preserved, protected, and enforced by the criminal courts. Any conscious failure by the criminal courts would constitute an affront to liberty. It is the pious duty of the criminal court to zealously guard and keep a consistent vision in safeguarding the constitutional values and ethos. A criminal court must uphold the constitutional thrust with



responsibility mandated on them by acting akin to a high priest."

40. A strong contention has been urged on behalf of the petitioners that grounds of arrest was not served on the accused immediately after their arrest which is a requirement of law as laid down by the Hon'ble Supreme Court in Pankaj Bansal's case supra and Prabir Purkayasta's case supra.

41. The Hon'ble Supreme Court in Pankaj Bansal's case supra, at paragraphs 34, 35, 38 to 45, has observed as under:

"34. The more important issue presently is as to how ED is required to "inform" the arrested person of the grounds for his/her arrest. Prayer (iii) in the writ petitions filed by the appellants pertained to this.

35. Section 19 does not specify in clear terms as to how the arrested person is to be "informed" of the grounds of arrest and this aspect has not been dealt with or delineated in Vijay Madanlal Choudhary - (2023) 12 SCC 1. Similarly, in V. Senthil Balaji - (2024) 3 SCC 51, this Court merely noted that the information of the grounds of arrest should be "served" on the arrestee, but did not elaborate on that issue. Pertinent to note, the grounds of arrest were furnished in writing to the



arrested person in that case. Surprisingly, no consistent and uniform practice seems to be followed by ED in this regard, as written copies of the grounds of arrest are furnished to arrested persons in certain parts of the country but in other areas, that practice is not followed and the grounds of arrest are either read out to them or allowed to be read by them.

38. In this regard, we may note that Article 22(1) of the Constitution provides, inter alia, that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. This being the fundamental right guaranteed to the arrested person, the mode of conveying information of the grounds of arrest must necessarily be meaningful so as to serve the intended purpose. It may be noted that Section 45 PMLA enables the person arrested under Section 19 thereof to seek release on bail but it postulates that unless the twin conditions prescribed thereunder are satisfied, such a person would not be entitled to grant of bail. The twin conditions set out in the provision are that, firstly, the court must be satisfied, after giving an opportunity to the Public Prosecutor to oppose the application for release, that there are reasonable grounds to believe that the arrested person is not



guilty of the offence and, secondly, that he is not likely to commit any offence while on bail. To meet this requirement, it would be essential for the arrested person to be aware of the grounds on which the authorised officer arrested him/her under Section 19 and the basis for the officer's "reason to believe" that he/she is guilty of an offence punishable under the 2002 Act. It is only if the arrested person has knowledge of these facts that he/she would be in a position to plead and prove before the Special Court that there are grounds to believe that he/she is not guilty of such offence, so as to avail the relief of bail. Therefore, communication of the grounds of arrest, as mandated by Article 22(1) of the Constitution and Section 19 PMLA, is meant to serve this higher purpose and must be given due importance.

39. We may also note that the language of Section 19 PMLA puts it beyond doubt that the authorised officer has to record in writing the reasons for forming the belief that the person proposed to be arrested is guilty of an offence punishable under the 2002 Act. Section 19(2) requires the authorised officer to forward a copy of the arrest order along with the material in his possession, referred to in Section 19(1), to the adjudicating authority in a sealed envelope. Though



it is not necessary for the arrested person to be supplied with all the material that is forwarded to the adjudicating authority under Section 19(2), he/she has a constitutional and statutory right to be “informed” of the grounds of arrest, which are compulsorily recorded in writing by the authorised officer in keeping with the mandate of Section 19(1) PMLA. As already noted hereinbefore, it seems that the mode of informing this to the persons arrested is left to the option of ED's authorised officers in different parts of the country i.e. to either furnish such grounds of arrest in writing or to allow such grounds to be read by the arrested person or be read over and explained to such person.

40. That apart, Rule 6 of the Prevention of Money Laundering (the Forms and the Manner of Forwarding a Copy of Order of Arrest of a Person Along with the Material to the Adjudicating Authority and its Period of Retention) Rules, 2005, titled “Forms of Records”, provides to the effect that the arresting officer while exercising powers under Section 19(1) PMLA, shall sign the arrest order in Form III appended to those Rules. Form III, being the prescribed format of the arrest order, reads as under:



"ARREST ORDER

Whereas, I Director/Deputy Director/Assistant Director/Officer authorised in this behalf by the Central Government, have reason to believe that (name of the person arrested) resident of has been guilty of an offence punishable under the provisions of the Prevention of Money-laundering Act, 2002 (15 of 2003);

Now, therefore, in exercise of the powers conferred on me under sub-section (1) of Section 19 of the Prevention of Money-laundering Act, 2002 (15 of 2003), I hereby arrest the said (name of the person arrested) at hours on and he has been informed of the grounds for such arrest.

Dated at on this day of Two thousand

Arresting Officer
(Signature with Seal)

To

.....
.....

(Name and complete address of the person arrested)"

41. Needless to state, this format would be followed all over the country by the authorised officers who exercise the power of arrest under Section 19(1) PMLA but, in certain parts of the country, the authorised officer would inform the arrested person of the grounds of arrest by furnishing the same in writing, while in other parts of the country, on the basis of the very same



prescribed format, the authorised officer would only read out or permit reading of the contents of the grounds of arrest. This dual and disparate procedure to convey the grounds of arrest to the arrested person cannot be countenanced on the strength of the very same arrest order, in the aforestated prescribed format.

42. That being so, there is no valid reason as to why a copy of such written grounds of arrest should not be furnished to the arrested person as a matter of course and without exception. There are two primary reasons as to why this would be the advisable course of action to be followed as a matter of principle. Firstly, in the event such grounds of arrest are orally read out to the arrested person or read by such person with nothing further and this fact is disputed in a given case, it may boil down to the word of the arrested person against the word of the authorised officer as to whether or not there is due and proper compliance in this regard. In the case on hand, that is the situation insofar as Basant Bansal is concerned. Though ED claims that witnesses were present and certified that the grounds of arrest were read out and explained to him in Hindi, that is neither here nor there as he did not sign the document. Non-compliance in this regard would entail release of



the arrested person straightaway, as held in V. Senthil Balaji [V. Senthil Balaji v. State - (2024) 3 SCC 51. Such a precarious situation is easily avoided and the consequence thereof can be obviated very simply by furnishing the written grounds of arrest, as recorded by the authorised officer in terms of Section 19(1) PMLA, to the arrested person under due acknowledgment, instead of leaving it to the debatable ipse dixit of the authorised officer.

43. The second reason as to why this would be the proper course to adopt is the constitutional objective underlying such information being given to the arrested person. Conveyance of this information is not only to apprise the arrested person of why he/she is being arrested but also to enable such person to seek legal counsel and, thereafter, present a case before the court under Section 45 to seek release on bail, if he/she so chooses. In this regard, the grounds of arrest in V. Senthil Balaji - (2024) 3 SCC 51 are placed on record and we find that the same run into as many as six pages. The grounds of arrest recorded in the case on hand in relation to Pankaj Bansal and Basant Bansal have not been produced before this Court, but it was contended that they were produced at the time of remand. However, as



already noted earlier, this did not serve the intended purpose. Further, in the event their grounds of arrest were equally voluminous, it would be well-nigh impossible for either Pankaj Bansal or Basant Bansal to record and remember all that they had read or heard being read out for future recall so as to avail legal remedies. More so, as a person who has just been arrested would not be in a calm and collected frame of mind and may be utterly incapable of remembering the contents of the grounds of arrest read by or read out to him/her. The very purpose of this constitutional and statutory protection would be rendered nugatory by permitting the authorities concerned to merely read out or permit reading of the grounds of arrest, irrespective of their length and detail, and claim due compliance with the constitutional requirement under Article 22(1) and the statutory mandate under Section 19(1) PMLA.

44. We may also note that the grounds of arrest recorded by the authorised officer, in terms of Section 19(1) PMLA, would be personal to the person who is arrested and there should, ordinarily, be no risk of sensitive material being divulged therefrom, compromising the sanctity and integrity of the investigation. In the event any such sensitive material finds mention in such grounds of arrest



recorded by the authorised officer, it would always be open to him to redact such sensitive portions in the document and furnish the edited copy of the grounds of arrest to the arrested person, so as to safeguard the sanctity of the investigation.

45. On the above analysis, to give true meaning and purpose to the constitutional and the statutory mandate of Section 19(1) PMLA of informing the arrested person of the grounds of arrest, we hold that it would be necessary, henceforth, that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception. The decisions of the Delhi High Court in Moin Akhtar Qureshi - 2017 SCC OnLine Del 12108 and the Bombay High Court in Chhagan Chandrakant Bhujbal, 2016 SCC OnLine Bom 9938, which hold to the contrary, do not lay down the correct law. In the case on hand, the admitted position is that ED's investigating officer merely read out or permitted reading of the grounds of arrest of the appellants and left it at that, which is also disputed by the appellants. As this form of communication is not found to be adequate to fulfil compliance with the mandate of Article 22(1) of the Constitution and Section 19(1) PMLA, we have no hesitation in holding that their arrest was not in keeping with the



provisions of Section 19(1) PMLA. Further, as already noted supra, the clandestine conduct of ED in proceeding against the appellants, by recording the second ECIR immediately after they secured interim protection in relation to the first ECIR, does not commend acceptance as it reeks of arbitrary exercise of power. In effect, the arrest of the appellants and, in consequence, their remand to the custody of ED and, thereafter, to judicial custody, cannot be sustained."

42. In Prabir Purkayastha's case supra, the Hon'ble Supreme Court, after extensively referring to its earlier judgment in Pankaj Bansal's case supra, in paragraphs 20 to 22 and 29 to 31, has observed as under:

"20. Resultantly, there is no doubt in the mind of the Court that any person arrested for allegation of commission of offences under the provisions of UAPA or for that matter any other offence(s) has a fundamental and a statutory right to be informed about the grounds of arrest in writing and a copy of such written grounds of arrest have to be furnished to the arrested person as a matter of course and without exception at the earliest. The purpose of informing to the arrested person the grounds of arrest is salutary and sacrosanct inasmuch as, this information would be



the only effective means for the arrested person to consult his Advocate; oppose the police custody remand and to seek bail. Any other interpretation would tantamount to diluting the sanctity of the fundamental right guaranteed under Article 22(1) of the Constitution of India.

21. The Right to Life and Personal Liberty is the most sacrosanct fundamental right guaranteed under Articles 20, 21 and 22 of the Constitution of India. Any attempt to encroach upon this fundamental right has been frowned upon by this Court in a catena of decisions. In this regard, we may refer to the following observations made by this Court in Roy V.D. v. State of Kerala - (2000) 8 SCC 590.

"7. The life and liberty of an individual is so sacrosanct that it cannot be allowed to be interfered with except under the authority of law. It is a principle which has been recognised and applied in all civilised countries. In our Constitution Article 21 guarantees protection of life and personal liberty not only to citizens of India but also to aliens."

Thus, any attempt to violate such fundamental right, guaranteed by Articles 20, 21 and 22 of the Constitution of India, would have to be dealt with strictly.



22. The right to be informed about the grounds of arrest flows from Article 22(1) of the Constitution of India and any infringement of this fundamental right would vitiate the process of arrest and remand. Mere fact that a charge-sheet has been filed in the matter, would not validate the illegality and the unconstitutionality committed at the time of arresting the accused and the grant of initial police custody remand to the accused.

29. The language used in Article 22(1) and Article 22(5) of the Constitution of India regarding the communication of the grounds is exactly the identical. Neither of the constitutional provisions require that the 'grounds' of "arrest" or "detention", as the case may be, must be communicated in writing. Thus, interpretation to this important facet of the fundamental right as made by the Constitution Bench while examining the scope of Article 22(5) of the Constitution of India would *ipso facto* apply to Article 22(1) of the Constitution of India insofar the requirement to communicate the grounds of arrest is concerned.

30. Hence, we have no hesitation in reiterating that the requirement to communicate the grounds of arrest or the grounds of detention in writing to a person arrested in connection with an offence or a person placed under preventive



detention as provided under Articles 22(1) and 22(5) of the Constitution of India is sacrosanct and cannot be breached under any situation. Non-compliance of this constitutional requirement and statutory mandate would lead to the custody or the detention being rendered illegal, as the case may be.

31. Furthermore, the provisions of Article 22(1) have already been interpreted by this Court in Pankaj Bansal (supra) laying down beyond the pale of doubt that the grounds of arrest must be communicated in writing to the person arrested of an offence at the earliest. Hence, the fervent plea of the learned ASG that there was no requirement under law to communicate the grounds of arrest in writing to the appellant-accused is noted to be rejected."

43. From a reading of the observations made by the Hon'ble Supreme Court in Prabir Purkayasta's case supra, it is very clear that post Pankaj Bansal's case i.e., from 03.10.2023, the requirement of serving the grounds of arrest on the accused immediately after his arrest as provided under Section 50(1) of Cr.PC and Article 22(1) of the Constitution of India is



mandatory and failure to comply the said requirement would entitle the accused for bail.

44. In the case of **RAM KISHOR ARORA VS DIRECTORATE OF ENFORCEMENT - (2024)7 SCC 599**, the Hon'ble Supreme Court has considered the issue about service of grounds of arrest on the accused immediately after their arrest, and in paragraphs 16 & 22, it is observed as under:

"16. In view of the aforestated proposition of law propounded by the Constitution Benches, there remains no shadow of doubt that the law laid down by the three-Judge Bench in *Vijay Madanlal Choudhary* that Section 19(1) PMLA has a reasonable nexus with the purposes and objects sought to be achieved by the PML Act and that the said provision is also compliant with the mandate of Article 22(1) of the Constitution of India, any observation made or any finding recorded by the Division Bench of lesser number of Judges contrary to the said ratio laid down in *Vijay Madanlal Choudhary* would be not in consonance with the jurisprudential wisdom expounded by the Constitution Benches in cases referred above. The three-Judge Bench in *Vijay Madanlal Choudhary* having already examined in detail the constitutional validity of Section 19 PMLA on the touchstone of



Article 22(1) and upheld the same, it holds the field as on the date.

22. In Vijay Madanlal Choudhary it has been categorically held that so long as the person has been informed about the grounds of his arrest, that is sufficient compliance with mandate of Article 22(1) of the Constitution. It is also observed that the arrested person before being produced before the Special Court within twenty-four hours or for that purposes of remand on each occasion, the Court is free to look into the relevant records made available by the authority about the involvement of the arrested person in the offence of money-laundering. Therefore, in our opinion the person arrested, if he is informed or made aware orally about the grounds of arrest at the time of his arrest and is furnished a written communication about the grounds of arrest as soon as may be i.e. as early as possible and within reasonably convenient and requisite time of twenty-four hours of his arrest, that would be sufficient compliance of not only Section 19 PMLA but also of Article 22(1) of the Constitution of India."

45. In the present case, accused nos.1, 2, 11, 12 & 14 were arrested on 11.06.2024 and accused nos.6 & 7 were arrested on 14.06.2024. Perusal of the order sheet of the committal



court would go to show that no mention is made in the order sheet about service of memo of grounds of arrest on the aforesaid accused immediately after their arrest. All that is mentioned in the order sheer is about service of check list, arrest memo, arrest intimation and inspection memo. According to the learned Counsel for the accused, the memo of grounds of arrest were served much after the accused were arrested and the same was not served immediately after their arrest. Perusal of the memo of grounds of arrest of accused no.11 who was arrested on 11.06.2024 would go to show that the same is signed by CW-79 - Madhusudhan, whose statement under Section 161 of Cr.PC was recorded only on 15.06.2024. In the said statement, he has not stated anything about he being present at the time of arrest of the accused person or about he signing the memo of grounds of arrest.

46. The memo of grounds of arrest of accused no.12 dated 11.06.2024 has been signed by CW-76 - Kiran who is the alleged eye-witness to the incident in question. The statement of CW-76 under Section 161 of Cr.PC was recorded on 15.06.2024 and his statement under Section 164 of Cr.PC was recorded on 22.06.2024. This witness has also not stated



anywhere about he signing the memo of grounds of arrest on 11.06.2024 or about his presence at the time of arrest of accused no.12 on 11.06.2024.

47. The memo of grounds of arrest of accused nos.1 & 14 has been signed by CW-73 - Nagesh and his statement under Section 161 Cr.PC has been recorded on 14.06.2024. Even this witness has not stated anything about he being present on 11.06.2024 when accused nos.1 & 14 were arrested nor has he stated about he signing the memo of grounds of arrest.

48. If the contention of the prosecution that memo of grounds of arrest were served on the accused immediately after their arrest is accepted, then the question arises as to why there was inordinate delay in recording the statement of these witnesses, more so the statement of prime eye-witness CW-76 - Kiran. Since the witnesses during the course of their statement have not stated anything about they being present at the time of arrest of the accused persons, or about they signing the memo of grounds of arrest, a serious doubt arises with regard to the contention put forward by the prosecution that memo of grounds of arrest were served on the accused



immediately after the arrest, more so because service of the memo of grounds of arrest is also not reflected in the order sheet of the Trial Court. Since service of memo of grounds of arrest on the accused immediately after their arrest is mandatory from 03.10.2023 onwards, non-compliance of the same entitles the accused for bail.

49. The Hon'ble Supreme Court in Pankaj Bansal's case supra and Prabir Purkayasta's case, has categorically held that grounds of arrest needs to be served on the accused in writing immediately after his arrest, conveying to the arrested accused of the basic facts on which he was being arrested so as to provide him an opportunity of defending himself against custodial remand and to seek bail. In Prabir Purkayasta's case supra, it has been observed that grounds of arrest would be required to contain all such details in the hand of the Investigation Officer which necessitated the arrest of the accused.

50. In the case on hand, the accused persons are arrested on different dates. However, the grounds of arrest served on all of them are similar and it is a cyclostyled copy. Perusal of the



same would clearly go to show that the same does not comply the requirement of the observations made by the Hon'ble Supreme Court in paragraph 48 of Prabir Purkayasta's case, wherein it has been observed that grounds of arrest would invariably be personal to the accused and cannot be equated with the reasons of arrest which are general in nature. Therefore, prima facie, it appears that prosecution has failed to comply the requirement of Section 50(1) of Cr.PC and Article 22(1) of the Constitution of India as held in Pankaj Bansal's case supra and Prabir Purkayasta's case supra.

51. In the case of **MANISH SISODIA VS DIRECTORATE OF ENFORCEMENT - 2022 SCC OnLine SC 1920**, at paragraph 53, the Hon'ble Supreme Court has observed as under:

"53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straight forward open and shut



cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception."

52. Some of the factors which the Court requires to take into consideration while considering the bail application of the accused are,

- (i) Seriousness and gravity of the crime;
- (ii) Specific role of the accused in the crime;
- (iii) Criminal antecedents of the accused;
- (iv) Probability of the accused tampering with the evidence of charge sheet witnesses;
- (v) Likelihood of the accused committing similar offences; and
- (vi) Possibility of the accused fleeing away from justice and not available for trial.

53. The petitioners in these petitions do not have serious criminal antecedents. They are all persons with deep roots in the society. Petitioners are in custody for the last six months and the prosecution, in all has cited 262 charge sheet witnesses



and 587 documents are cited in 13 volumes along with the charge sheet. Therefore, chances of the trial being completed in the near future is very remote. If the aforesaid factors are appreciated in the background of the judgments referred to above and the brief analysis of the material on record, I am of the opinion that petitioners' prayer for grant of regular bail requires to be answered affirmatively on the merits of the case and also on the ground of non-furnishing of grounds of arrest on the accused immediately after their arrest.

54. In view of the law laid down by the Hon'ble Supreme Court in Pankaj Bansal's case supra and Prabir Purkayasta's case supra, service of memo of grounds of arrest on the arrested accused immediately after their arrest is mandatory requirement of law for all offences post 03.10.2023 onwards, and therefore, there is an urgent need to update the arrest memo forms to ensure effective compliance of Section 50(1) of Cr.PC (corresponding provision under Section 47 of BNSS, 2023) and Article 22(1) of the Constitution of India. The Director General of Police, State of Karnataka, shall therefore take necessary steps forthwith prescribing a uniform format for communicating grounds of arrest in writing to the person



arrested, which shall include all basic facts of the case leading to the arrest, and the copy of such memo of grounds of arrest as communicated to the arrested person shall be enclosed along with the remand report when filed before the Magistrate seeking remand. The Magistrates and Judges in the District Judiciary who exercise powers of remand shall record their satisfaction of compliance, or otherwise, of the requirement mandated under Section 50(1) of Cr.PC (Corresponding provision under Section 47 of BNSS, 2023) and Article 22(1) of the Constitution of India, without fail.

55. The Registrar General of this Court is directed to take necessary steps to circulate the copy of this order to all the Magistrates/Judges in the District Judiciary in the State of Karnataka, and also to the Director General of Police, State of Karnataka, for effective compliance.

56. For all the aforementioned reasons, I proceed to pass the following order:

57. The petitions are allowed. The petitioners/accused nos.1, 2, 6, 7, 11, 12 & 14 are directed to be enlarged on bail Crime No.250/2024 registered by Kamakshipalya Police Station,



Bengaluru City, for the offences punishable under Sections 120B, 364, 384, 355, 302, 201, 143, 147, 148, 149, 34 IPC, subject to the following conditions:

a) Petitioners shall execute personal bond for a sum of Rs.1,00,000/- each with two sureties for the likesum, to the satisfaction of the jurisdictional Court;

b) The petitioners shall appear regularly on all the dates of hearing before the Trial Court unless the Trial Court exempts their appearance for valid reasons;

c) The petitioners shall not directly or indirectly threaten or tamper with the prosecution witnesses;

d) The petitioners shall not involve in similar offences in future;

e) The petitioners shall not leave the jurisdiction of the Trial Court without permission of the said Court until the case registered against them is disposed off.

**Sd/-
(S VISHWAJITH SHETTY)
JUDGE**