



IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH

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DATED THIS THE 7TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR. JUSTICE V.SRISHANANDA

CRIMINAL PETITION NO. 101267 OF 2025
(439(Cr.PC)/483(BNSS))

BETWEEN:

ARBAZ KHAN @ ARBAJ S/O. SARDAR KHAN,
AGE: 29 YEARS, OCC: COOLIE,
R/O KILLA AREA, NOW RESIDING AT LAXMI
CAMP, GANGAVATHI, DIST. KOPPAL

...PETITIONER

(BY SRI SADIQ N GOODWALA, ADVOCATE)

AND:

THE STATE OF KARNATAKA
THROUGH SUB-INSPECTOR OF POLICE,
GANGAVATHI RURAL POLICE STATION,
KOPPAL, DIST. DHARWAD
REPRESENTED BY THE STATE PUBLIC PROSECUTION,
HIGH COURT OF KARNATAKA, DHARWAD BENCH

...RESPONDENT

(BY SMT. GIRIJA S. HIREMATH, HCGP)

THIS CRIMINAL PETITION IS FILED U/SEC. 439 OF CR.P.C. (UNDER SECTION 483 OF BNSS, 2023) SEEKING TO RELEASE THE PETITIONER/ACCUSED NO.1 ON BAIL IN CRIME NO. 0226/2024 OF GANGAVATHI RURAL P.S. FOR OFFENCE P/U/SEC. 132, 109(1), 121(1), 115(1), 352, 351(2), 238 R/W SEC-3(5), 281, 125, 125(a) OF BNS 2023 AND SEC. 183, 184, 192, 196 AND 177 OF IMV ACT PRINCIPAL CIVIL JUDGE (JR.DN.) AND JMFC COURT GANGAVATHI KOPPAL.

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





ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE V.SRISHANANDA)

1. Heard Sri.Sadiq N. Goodwala, learned counsel for the petitioner and Smt. Girija S. Hiremth, learned High Court Government Pleader for respondent-State.

2. Petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'the BNSS') with following prayer:

"To release the petitioner/accused No.1 on bail in Crime No. 0226/2024 of Gangavathi Rural P.S. for offence punishable under Sections 132, 109(1), 121(1), 115(1), 352, 351(2), 238 R/W. Sections 3(5), 281, 125, 125(A) of BNS 2023 and Sections 183, 184, 192, 196 and 177 of IMV Act Principal Civil Judge (Jr.Dn.) and JMFC Court Gangavathi Koppal."

3. Facts in a nutshell for disposal of the revision petition are as under:

Pundappa, Police Sub-Inspector, Gangavathi Rural Police Station, lodged a complaint which was registered in



Crime No.226/2024 on 09.10.2024. The offences alleged against the petitioner for the offences punishable under Sections 132, 109(1), 121(1), 115(1), 352, 351(2), 238 read with Section 3(5), 281, 125, 125(a) of the Bharatiya Nyaya Sanhita, 2023 (for short, 'the BNS') Sections 183, 184, 192, 196 and 177 of the Indian Motor Vehicles Act.

4. The complaint averments would reveal that on 09.10.2024 at about 9.30 p.m., he received a credible information that near Hemagudda Durgamma Temple, in the wake of the Dussehra festival at about 4.30 p.m. from Gangavathi side, three persons were proceeding on Yamaha RX-135 motorcycle and they were in the process of adventure activity namely 'Wheeling' or 'wheelies' (lifting the front wheel while the motorcycle is moving).

5. Since the complainant was in patrolling duty, tried to intercept the said motorcycle. At that juncture, rider of the motorcycle and two of other persons, who were on the motorcycle, fell down on account of the skid of motorcycle.



6. Immediately, when the Police went to help them, they started abusing the complainant and sub-staff in filthy language. Thereafter, they even went to the extent of man handling the Police personnel and mobile telephone possessed by sub-staff was snatched and thrown into Tungabhadra canal. When the same was questioned, there were fist injuries caused by them to the Police personnel. After the quarrel was pacified, Police took them to the custody and lodged the complaint.

7. Request made by the petitioner for grant of bail was turned down by the learned Sessions Judge and thereafter, petitioner is before this Court, who is accused No.1.

8. Sri.Sadiq N. Goodwala, learned counsel for the petitioner reiterating the grounds urged in the petition vehemently contended that the petitioner is innocent of the offences alleged against him and there is rivalry between him and the Police, resulting in false case being foisted against him and sought for grant of bail.



9. He would further contend that since the charge sheet is now filed, continuation of the accused in judicial custody is no longer warranted as the main apprehension of the prosecution that accused may not be available for investigation has been now quelled.

10. *Per contra*, Smt. Girija S. Hiremath, learned High Court Government Pleader for respondent-State opposes the bail grounds with vehemence.

11. She would bring it to the notice of this Court that accused is a habitual offender and such persons are not entitled for grant of bail by resorting to the special powers vested under Section 483 of the BNSS and sought for dismissal of the petition.

12. Having heard the arguments of both sides, this Court perused the material on record meticulously.

13. On such perusal of material on record, it is seen that the petitioner is involved in number of cases as could be seen from the charge sheet material.



14. *Prima facie* allegations including the photographs would go to show that the petitioner did involve in the road rage by way of wheeling. In fact, it is a trending menace in the public road which not only endangers the rider and pillion rider of the motorcycle, but also general public at large.

15. A plain reading of the provisions of Motor Vehicles Act, 1988 and the Indian Penal Code, 1860 it is found that the existing statutory provisions are not adequate for enforcement agencies to effectively curb the menace of "wheeling". Perhaps, at the time of enacting the Motor Vehicles Act, legislators did not foresee or specifically contemplate that a two wheeler would be driven on hind wheel alone. Accordingly, no express penal provision was envisaged to advert said mischief. At present such acts are booked within the ambit of the general offences of reckless or negligent driving. However, it is to be noted that the absence of a specific and necessary provision has resulted in legislative vacuum,



affecting the efficacy of law enforcement agencies in curbing menace of 'wheeling', as offence of reckless driving is bailable in nature.

16. As such, prosecution agency is unable to book the culprit with severe penal provisions which would effectively deter and curb the galloping trend of the menace.

17. It is also pertinent to note that act of wheeling initially confined to urban areas on sufficiently wide and arterial roads. Over passage of time, this hazardous and perilous practice extended its tentacles even to rural areas.

18. Younger generation riders of the motorcycle are under the misconception that act of wheeling is bravado and indulge in such perilous stunts being unaware of the grave risks involved in the said act.

19. Needless to emphasize that wheeling not only result in endangering the life and safety of the rider or



pillion rider but may as well pose serious threat to the general public at large. Thus, act of few unscrupulous and unmindful youth in indulging the wheeling would definitely disturb the public order and tranquility.

20. Statistics in this regard, are reported through the media (print and electronic) resulting in fatal accidents with devastating consequences have shaken the confidence reposed in law enforcing agencies by the law abiding citizens.

21. Taking note of the galloping trend and alarming rise in such incidents, it is now the bounded duty of the State and its law enforcement agencies to legislate necessary legal provisions and to take stringent measures to suppress the perilous activity.

22. Legislature has to take into consideration that existing statutory provisions relating to reckless and negligent driving is hardly sufficient to curb the menace and therefore, to fill up the legislative vacuum, suitable



and stringent provisions are to be incorporated by amending the Indian Penal Code and Motor Vehicles Act to complement each other.

23. In view of the above discussions, invariably, this Court has to take judicial notice of galloping trend of such perilous misadventure while exercising its discretionary jurisdiction; in curbing the acts of a few unscrupulous elements have a deleterious impact upon society at large, thereby disturbing public order and endangering the safety and security of citizens.

24. Under such circumstances, this Court is of the considered opinion that the discretionary power vested in it cannot be exercised in favour of the applicant resulting in rejecting the request for grant of bail. Further, materials on record, depict that petitioner being involved in many other criminal cases, he is to be termed as a habitual offender.



25. No doubt, the offences alleged against the petitioner in the present case would not be in normal circumstances, would not be so grave so as to deny the bail; but taking note of the fact that the petitioner is the habitual offender. In the case on hand, when he fell down while he had indulged in the act of wheeling, police went to help them out; but the petitioner and other two persons picked up the quarrel with the police personnel and they not only abused the police in filthy language but also high handedly caused injuries to the police personnel besides throwing away the mobile telephone of sub-staff of the police, this Court is of the considered opinion that petitioner is not entitled for grant of bail.

26. In light of the aforesaid discussion, mere filing of the charge sheet, by itself, cannot be held sufficient to entitle the petitioner to an order of bail by invoking the extraordinary jurisdiction of this Court under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



27. Further, it is always open to the petitioner to renew his bail request before the appropriate forum if there are any positive changed circumstances in his case.

28. Accordingly, the following:

ORDER

Criminal petition is ***rejected.***

Sd/-
(V.SRISHANANDA)
JUDGE

KAV/AC
CT:GSM
List No.: 1 Sl No.: 13