

**IN THE COURT OF THE XXVIII ADDL. CITY CIVIL & SESSIONS
JUDGE**

Mayo Hall, Bangalore, [CCH.NO.29]

Present :- Sri. Krishnaji Baburao Patil, B.Com., LL.B.,(Spl.)

Dated this the 18th day of November 2020

Crl.Misc.No.25847/2020

- Petitioners:**
1. Vijay,
S/o Kumaresh,
Aged about 21 years,
R/at No.189,
10th Cross, 8th Main,
New Bagaluru Layout,
Lingarajapura,
Bengaluru.
 2. Prashanth,
S/o Joseph Glavi,
Aged about 24 years,
R/at No.208,
Near Shanthisagar Hotel,
Lingarajapuram,
Banaswadi,
Bengaluru.
 3. Ajay.S,
S/o Shiva,
Aged about 20 years,
R/at No.80/1,
6th Cross,
Sampangiramaiah Block,
Shampura Main Road,
D.J. Halli,
Bengaluru.

4. Ajay,
S/o Pari,
Aged about 20 years,
R/at No.23,
10th Cross, 8th Main,
New Bagaluru Layout,
Lingarajapuram,
Bengaluru.

(By pleader : Sri. Narayanaswamy)

V/s

Respondent: State by;
Halasuru Police Station
Bengaluru.

(By Public Prosecutor)

ORDERS

The present Petition is filed by the Petitioners who are accused No.2, 4, 5 and 6 under Section 439 of Cr.P.C., for granting regular bail on the ground that the Respondent Police have registered case against the accused in Cr.No.180/2020 for the offences punishable under Section 399 and 402 of IPC and Section 25(1)(B)(b) of Arms Act.

2. It is alleged in the complaint that, on 12.10.2020 in the

night at 11.05 p.m., the Complainant received credible information that 5 to 6 persons present in a group on the road, in front of Golden Jubilee Apartment holding clubs in their hands and planning for commission of dacoity like money, mobile phones and valuable things from the passers on the road and vehicle riders. Thereafter, the Complainant has secured panchas and informed the same, then he along with his staff and panchas went to the spot and noticed 506 persons possessed clubs in their hands. After confirmation, the Complainant, his staffs and panchas were surrounded those persons and caught hold all of them at the spot along with seizures and registered the case. Hence, this complaint. During the course of investigation, the Respondent Police have arrested the Petitioners and produced them before the X Addl. CMM, Bengaluru and the Learned Magistrate remanded them to judicial custody.

3. The Petitioners have contended that they are innocent of the alleged offences and they have got valid and tenable defence in their favour. The Petitioners were not aware about the same, they never involved in the above case and has not committed any offences, they neither directly nor indirectly

involved in the above case. Even though, the Petitioners are no way concerned to the alleged crime, the Respondent Police have falsely implicated in them in the above case. There is no iota of evidence produced by the Complainant against the Petitioners. No weapon was seized from the Petitioners. The entire case of the Prosecution and the materials placed before the Court does not pinpoint that the Petitioners are involved in the said offence. No such incident took place as alleged in the complaint. The Petitioners hail from respectable family and they are permanent residents of the address cited in the cause title of the petition. The Petitioners are ready to abide by the conditions imposed by this Court and ready to co-operate with the IO for investigation. They will undertake not to tamper with the prosecution witnesses. Hence, prayed to allow the Petition.

4. For the said Petition the Learned PP has filed objections in detail denying the contents of the Petition specifically as baseless and contended that the offence alleged against the Petitioners are under Section 399 and 402 of IPC and Section 25(1)(B)(b) of Arms Act. The contents of the FIR and other

documents are treated as part and parcel of the objection. The offences are punishable with imprisonment upto 10 years. The Police have seized the two wheelers and weapons from the Petitioners in the presence of panch witnesses. The investigation is in progress and the Petitioners are required for the investigation. The Petitioners might tamper with the prosecution witnesses which would affect the trial of the case. If the Petitioners enlarged on bail they might be abscond and commit similar offences. Hence, prayed to dismiss the application.

5. On the basis of the above, the point that arises for my consideration are:-

- 1) Whether the Petition deserves to be allowed?
- 2) What order?

6. My answer to the above points are :

Point No.1 : In the Affirmative.

Point No.2 : As per the final order for the following:-

REASONS

7. The offences alleged against the Petitioners are under Section 399 and 402 of IPC and Section 25(1)(B)(b) of Arms Act.

The allegation of the prosecution that after receiving credible information, they had been to the spot along with his staff and found that 5 to 6 persons were holding clubs in their hands and making preparation to commit robbery. But, it is not the case of the Prosecution at this stage that they have committed any offence in furtherance of their alleged preparation. The Petitioners were already arrested and produced before the Court and incriminating material have been seized by the Police. Under these circumstances, it is clear that the Petitioners are not required for any further investigation of the present case. The Petitioners are contending that they are the permanent residents of the address given in the cause title to the petition. The Petitioners are ready to abide by the conditions which may imposed by this Court. The Petitioners are also ready to furnish surety to the satisfaction of the committal court if the bail is granted. ON perusal of the remand application, against these Petitioners there is no criminal antecedents is present. The offences alleged are not punishable with death or imprisonment for life. Under these circumstances, this Court is of the view that the Petitioners are entitled for bail as prayed for in the present

petition. The apprehension of the prosecution can be met with by imposing certain conditions. Hence, I answer Point No.1 in the Affirmative.

8. **Point No.2**:- In the result, this Court proceeds to pass the following:-

ORDER

The Petition filed by the Petitioners No.1 to 4 under Sec.439 Cr.P.C., is hereby allowed.

The Petitioners / accused No.2, 4, 5 and 6 Vijay, Prashanth, Ajay.S and Ajay are hereby entitled for bail in Cr.No.218/2020 of Mahadevapura Police Station for the offences punishable under Section 399 and 402 of IPC and Section 25(1)(B)(b) of Arms Act of IPC, on execution of personal bond for Rs.1,00,000/- each with one surety for likesum to the satisfaction of Jurisdictional Magistrate on the following conditions:-

1) The Petitioners shall co-operative with IO in investigation of the present case.

2) The Petitioners shall not tamper the prosecution witnesses in any manner.

3) The Petitioners shall not leave the jurisdiction of this Court without prior permission.

4) The Petitioners shall not change his address without prior permission of this Court.

5) The Petitioners shall appear before the Court on every date of hearing.

6) The Petitioners shall produced their original residence proof at the time of execution of surety bond.

[Dictated to the Stenographer, thereafter transcribed and typed by the Stenographer and the same was corrected, signed and then pronounced by me in the open Court on this the **18th day of November 2020**].

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

Orders pronounced in open court
as under (vide separately):-

ORDER

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[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.