

**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 6th day of November 2020

Crl.Misc.No.25827/2020

- Petitioners:** 1. Sri. Manikanta.M,
Son of Manjunath,
Aged about 20 years,
Residing at Abbalagere Village,
Holaluru Post, Shimoga,
Taluk and District.
2. Sri. Idayath Pasha @ Munna,
Son of Mujahid Pasha,
Aged about 24 years,
Residing at Somanathapura Village,
Sosle Post,
T. Narsipura Taluk,
Mysore District.

(on 2.11.2020 Petition against
Petitioner No.2 dismissed as not
pressed)

(By pleader : Sri. M. Srinivas Gowda)

V/s

Respondent: State by;
Mahadevapura Police Station
Bengaluru.

(By Public Prosecutor)

ORDERS

The present Petition is filed by the Petitioners who are accused No.1 and 2 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.218/2020 for the offences punishable under Section 364A of IPC.

2. It is alleged in the complaint that, on 11.8.2020 at about 1.30 a.m., the Complainant relative Sonu Kumar came from Bihar through Airplane to Bangalore Airport and boarded into Ola Car to go to A. Narayanapura, Andhra Colony, during that time, the driver of the car boarded one more person in the said order. Later the said accused persons have demanded the Complainant's relative for Rs.2 lakhs and threatened to kill him. They drove the car towards Tumkur Road. The said Sonu Kumar has called the Complainant form mobile No.957268855 and forcefully got deposited Rs.50,000/- twice totally Rs.1 lakhs and Sonu Kumar has drawn Rs.20,000/- from his ATM Card. Hence, the Complainant lodged complaint against the driver of the Ola Car and his friend.

3. The Petitioners have contended that they are innocent of the alleged offences and they have been falsely implicated 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 Respondent Police have completed the investigation and hence the presence of the Petitioners in judicial custody is no more required by the Respondent Police for any investigation. 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 364(A) of IPC. The contents of the FIR and other documents are treated as part and parcel of the objection. The offence is non-bailable in nature and punishable with death sentence. The Petitioner during the interrogation have admitted the commission of offence. The Police have seized the car in which Petitioner kidnapped the victim Sonu Kumar and also ATM Card, Mobile Phone, amount in the presence of panch witnesses. The investigation is in progress and the Petitioner is required for the investigation and to identify the witnesses. The Respondent Police have to collect certain document from the Bank with respect to the accounts of Petitioners. The Petitioner might tamper with the prosecution witnesses which would affect the trial of the case. If the Petitioner enlarged on bail he might be abscond and commit similar offence along with the other accused who are still absconded. 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. Initially the present petition is filed by the Petitioner No.1 and 2. Subsequently, on 2.11.2020 the petition against the Petitioner No.2 was dismissed as not pressed in view of the memo filed by the Advocate for the Petitioner. The offence alleged against the Petitioner is under Section 364(A) of IPC. The allegation against the Accused that they have robbed the Complainant to the extent of Rs.2,10,000/-. The Accused were arrested on 13.8.2020 from Ramakrishna Lodge. There is no explanation as to how the IO has identified the accused persons. According to the Complainant, the offence was committed by two unknown persons. The offence alleged against the Petitioner is not punishable with death or imprisonment for life. Considering the facts and circumstances of the present case,

keeping the Accused behind the bar will not serve any purpose. Under these circumstances, this Court is of the view that the Petitioner is 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 Petitioner No.1 under Sec.439 Cr.P.C., is hereby allowed.

The Petitioner / accused Sri. Manikanta.M S/o Manjunath is hereby entitled for bail in Cr.No.218/2020 of Mahadevapura Police Station for the offence under Section 364(A) of IPC, on execution of personal bond for Rs.1,00,000/- with one surety for likesum to the satisfaction of Jurisdictional Magistrate on the following conditions:-

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

2) The Petitioner shall attend Respondent Police Station on first Sunday of every month and mark his attendance till filing of the charge sheet in the present case.

3) The Petitioner shall not tamper the prosecution witnesses in any manner.

4) The Petitioner shall not leave the jurisdiction of this Court without prior permission.

5) The Petitioner shall not change his address without prior permission of this Court.

6) The Petitioner shall appear before the Court on every date of hearing.

7) The Petitioner shall produced his 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 **6th 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.