

**IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE AT
HASSAN**

DATED THIS THE 2ND DAY OF MAY 2012

PRESENT: Smt. **H.G. VIJAYAKUMARI**, B.Sc., LLB.,
Additional Sessions Judge, Hassan

CRIMINAL MISCELLANEOUS PETITION 403/2012

Petitioners

1. **Naveen Kumar**, aged about 25 years.
2. **Shivaraj** S/o. Hanumanthaiah, Aged about 23 years.

(Both are R/o.Anekere Village, Dandiganahalli Hobli, Channarayapatna Taluk, Hassan District.
3. **A.T. Kumar** S/o. Thimmaiah, R/o. Ankanahalli Village, Holenarasipura Taluk.
4. Manjula W/o. A.T. Kumar, R/o. Ankanahalli Village, Holenarasipura Taluk.

[By Sri. H.N. Vijayananda, Advocate]
Vs.

Respondent:

State by: Hassan Rural Police,

[By Additional Public Prosecutor]

O R D E R S

Petitioners, who are shown as accused No.1, 2, 4 and 5 in
Crime No.117/2012 of respondent police station, registered for

the offences punishable under Sections 143, 144, 147, 148, 448, 427, 442, 323, 504, 506 read with section 149 of Indian Penal Code, have filed this petition under Section 438 of Criminal Procedure Code for anticipatory bail.

2. It is stated in the complaint that on 20.4.2012 at about 2.00 a.m., the accused persons went near the house of complainant's uncle's son Paramesha's house, entered the house by breaking open the door of the house and assaulted the complainant's uncle Hanumanthaiah and aunt Savithramma and also assaulted Paramesha, abused them in a filthy language and took them in a Car bearing registration No.KA-05-D-2023 in an isolated place at Kundur Meliyamma and wherein also they assaulted Paramesha with hands. Therefore, the complainant went to police station and lodged complaint, based on which crime has been registered and investigation is on.

3. It is further stated in the petition that, petitioners are innocents of the charges levelled against them. They have not been involved in commission of alleged offences. The 4th petitioner is working as Police Constable in KSRP and he has

discharged his duty on 20.4.2012 from the morning till 2.00 p.m. There are no evidentiary materials to believe that the petitioners have committed the offences. The offences alleged are not punishable with death or life imprisonment and they are triable by learned JMFC. On the basis of false and baseless complaint, the Police are making hectic efforts to arrest the petitioners. They are ready to furnish surety to the satisfaction of this Court or any other Court and ready to abide by the conditions that may be imposed by this Court. Hence, they pray for allowing the petition.

2. The learned Additional Public Prosecutor took notice for State and filed objections interalia contending that a case was registered against the petitioner in Crime No.117/2012 for the offences punishable under Sections 143, 144, 147, 148, 448, 427, 442, 323, 504, 506 read with section 149 of Indian Penal Code and that there are prima-facie materials against the petitioners in commission of alleged offences. The investigation is still in progress and if at this stage, petitioners are granted bail, they may abscond and they may tamper with the prosecution witnesses. If that be so, further investigation of the case would be hampered. Hence, learned

Additional Public Prosecutor prays for dismissal of the petition.

4. Heard Sri. H.N. Vijayananda, learned counsel appearing for the petitioners and learned Additional Public Prosecutor for State.

5. Now the following point arises for my consideration :-

“Whether the petition filed by the petitioners seeking bail under Section 438 of Criminal Procedure Code is maintainable?”

6. My finding to the above point is in the '**Negative**', for the following:-

REASONS

7. I have carefully perused the petition allegations and other materials placed on record. On perusal of the First Information Report, shows that the respondent Police have registered the crime against the petitioners herein for the offence punishable under Sections 143, 144, 147, 148, 448, 427, 442, 323, 504, 506 read with section 149 of Indian Penal Code. The offences alleged against the petitioners are

bailable in nature and that there are no materials to hold that the petitioners herein have got apprehension much less reasonable apprehension of their arrest by the respondent Police. Therefore, I am of the view that, the present petition is not maintainable. Accordingly, I answer above point in the '**negative**'.

8. In view of my findings on the above point, the petition requires to be dismissed as not maintainable. In the result, I proceed to pass the following:-

O R D E R

Petition is hereby dismissed as not maintainable.

(Dictated to Judgment Writer, typed by him directly through Computer, revised, corrected and pronounced and signed by me in Open Court on this the 2nd day of **May 2012**).

(H.G. Vijaya Kumari)
Additional Sessions Judge,
Hassan.