

IN THE COURT OF THE SESSIONS JUDGE AT YADGIRI

Present:- Sri. Sadanand Narayan Nayak,
B.A.LL.M.
District and Sessions Judge,
Y A D G I R I.

Criminal Misc. No. 491 of 2017

Dated this the 22nd day of July, 2017

- 1) NARASINGAPPA S/O BHEEMANNA, AGE: 60 YEARS, OCCUPATION: AGRICULTURE.
- 2) MANOHAR S/O NARASINGAPPA, AGE: 36 YEARS, OCCUPATION: AGRICULTURE.
- 3) SURESH S/O NARASINGAPPA, AGE: 30 YEARS, OCCUPATION: AGRICULTURE.
- 4) VISHWANATH S/O NARASINGAPPA, AGE: 28 YEARS, OCCUPATION: AGRICULTURE.
- 5) MAHADEVAPPA S/O BHEEMANNA, AGE: 70 YEARS, OCCUPATION: AGRICULTURE.
- 6) GURUNATH S/O MAHADEVAPPA, AGE: 36 YEARS, OCCUPATION: AGRICULTURE.
- 7) HANMANTHRAYA S/O BHEEMANNA, AGE: 56 YEARS, OCCUPATION: AGRICULTURE.
- 8) RAVI S/O HANMANTHRAYA, AGE: 34 YEARS, OCCUPATION: AGRICULTURE.
- 9) SAIDAPPA S/O BHEEMANNA, AGE: 52 YEARS, OCCUPATION: AGRICULTURE.
- 10) VENKATAPPA S/O SAIDAPPA, AGE: 30 YEARS, OCCUPATION: AGRICULTURE.

11) VIJAYKUMAR S/O SAIDAPPA, AGE: 34 YEARS,
OCCUPATION: AGRICULTURE.

12) VENKOBA S/O NARASINGAPPA, AGE: 40 YEARS,
OCCUPATION: AGRICULTURE.

ALL R/O TURUKANDODDI, TALUKA AND DISTRICT
YADGIRI.

....Petitioners.

(BY SRI. DEVINDRAPPA M., ADV.)

- VERSUS -

THE STATE THROUGH SAIDAPUR POLICE STATION.

....Respondent.

(BY PUBLIC PROSECUTOR)

ORDER

This petition is filed under Section 438 of Cr.P.C., seeking releasing of the petitioners on bail in Crime No.112/2017 of the respondent police contending that the petitioners are innocent one and they have not committed any offences and there are no reasonable grounds to believe that the above petitioners have committed the alleged offences and the offences alleged against them is not punishable with death or life imprisonment and they are ready to furnish surety and abide by the conditions imposed by this Court as they are the law abiding citizens. On

these and among other grounds it is prayed to grant an anticipatory bail to the petitioners.

2) The same is resisted by the learned Public Prosecutor by filing counter contending that the offence is non-bailable one and serious in nature and there are no justifiable grounds to grant an anticipatory bail to the petitioners and it is prayed to reject the bail.

3) Heard the arguments.

4) The points for my consideration;

1. Whether the application under Section 438 of Cr.P.C. is entitled to be allowed by granting anticipatory bail?

5) My finding on the above point is in the ***affirmative*** for the following;

REASONS

6) I have examined the materials on record. It transpires from the records that on the complaint of the complainant, the respondent police have registered a case in

Crime No.112/2017 as against the above petitioners of the offences punishable under Sections 143, 147, 148, 323, 324, 427, 504, 506, 109 R/w Section 149 of Indian Penal Code, which are non-bailable one and there is an apprehension of arrest. The offences alleged against the petitioners though non-bailable, but not punishable with death or imprisonment for life. It is significant to note that only prima-facie case can be taken in to consideration while considering the bail and the detail examination of document need not be considered coupled with the nature of the offence, character of the evidence and reputation and availability of the petitioners and their antecedents while considering the anticipatory bail and under Section 438 of Cr.P.C., the Court of Session and the Hon'ble High Court are empowered to grant an anticipatory bail to the accused when there is an apprehension of arrest in non-bailable cases and the Court has to exercise its discretion judiciously.

7) Here in the instant case, on perusing the averments of the complaint it evince that there is a civil dispute between the complainant and the above petitioners and thereby the

averments of the complaint is yet to be tested by the Court during the course of full dressed trial. This apart, the offence alleged against the petitioners is not punishable with death or life imprisonment. Having regard to the totality of the circumstances, there are justifiable grounds to grant an anticipatory bail to the petitioners on putting certain conditions on their movements which will suffice the apprehension of prosecution agency and if the petitioners fail to abide by the conditions imposed, the prosecution would approach for cancellation of bail. In the result, I proceed to pass the following;

O R D E R

The bail application filed by the petitioners under Section 438 of Cr.P.C. is hereby allowed.

It is ordered to release the petitioners on bail on self bond of Rs.30,000/- each with one surety of like-sum in the event of arrest by the respondent police in Crime No.112/2017 with the following conditions:-

- 1) They shall mark their attendance before the respondent police on every Sunday between 10-00 a.m. to 5-00 p.m. for the period of 3 months.**
- 2) They shall not indulge in any criminal activities.**
- 3) They shall not threaten the prosecution witnesses and thereby hamper the investigation.**
- 4) They shall surrender before the respondent police within 30 days from the date of this order and to execute a bond before the respondent police in terms of this Order, failing which their bail automatically stands cancelled.**

(Dictated to the Judgment-Writer directly on computer, corrected by me and then pronounced in open Court on this the **22nd** day of **July, 2017**).

(Sadanand Narayan Nayak)
Sessions Judge,
Yadgiri.

Raj.A/-