

KATK010056472022



**IN THE COURT OF VI ADDL. DIST. & SESSIONS
JUDGE AT TUMAKURU.**

PRESENT : Sri. G.V.Chandrashekhar, B.E.(Civil), LLM, P.G.Diploma in
International Law,
International Relations and
Institutions(ISIL, New Delhi)

VI Addl. District and Sessions Judge,
Tumakuru

Crl. Misc.Pet.No.1513/2022

Dated this the 13th day of October 2022

Petitioner: Kumar E
S/o Sri.Eeregowda
Aged about 40 years,
J.P.Nagar, 1st Phase
Opp: Ellamma Devi Temple
Ambedkar Colony, Sarakki
Bengaluru-560078.
(Aadhar No.8631 1051 5880)

(By Sri.M.M, Advocate)

V/s

Respondent : State by Sira police

(by learned Public Prosecutor)

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ORDER ON PETITION FILED

U/sec.438 of Cr.P.C.

The petitioner has filed this petition U/sec.438 of Cr.P.C seeking anticipatory bail for the offences punishable under sections 417, 420, 465, 468, 471 r/w section 34 of IPC in Cr.No.173/2022.

2. The petitioner in his petition has contended that, he has never committed any offence much less the offence alleged, no way connected to the alleged act, permanent resident of the locality, facts have been cooked up just to make him seen to be involved in this case, that he has no bad antecedents and further

submitted that in the event of granting bail he is ready to abide by the conditions imposed by the court, aged old parents to look after, rustic villager and prays for allowing the said petition.

3. To this, the learned public prosecutor has filed objection statement contending that the petitioner name has not at all been mentioned in the FIR and therefore the question of arresting him does not arise and also submitted that the petitioner is influential person of the locality , financially well-off and if released on bail he would flee away from justice which would delay the trial and prays for rejecting the petition.

4. Heard the arguments of the learned counsel for the petitioners and the learned public prosecutor.

5. The points that arise for my consideration are :

Whether the petitioner has made out grounds to exercise the jurisdiction vested with this Court U/sec.438 of Cr.P.C.,?

6. My findings to the above point is in the affirmative, for the following:

REASONS

7.Perused the records. It is to be noted that on perusal of FIR there is no mention of the name of the petitioner as an accused and the petitioner apprehends that he would be arrested and paraded before the general public and thereby the police are trying to implicate him in this case though they do not have any grounds. Thus submits that he having no antecedents be granted anticipatory bail . It is to be noted that at this stage it is relevant to cite the judgment of the **Hon'ble Apex Court judgment in Susheela Aggarwal and others Vs. State(N.C.T of Delhi) & others reported in(2020) 5 SCC 1** the Hon'ble Supreme Court has clarified regarding grant of anticipatory bail.

Quote:

".....Stage 1 application can be filed- it is not essential that an application should be moved only after an FIR is filed- it can be moved earlier, so long as a facts are clear and there is a reasonable basis for apprehending arrest....."

Unquote.

8. So from perusal of the above citation of the Hon'ble Supreme Court that no formal complaint need be lodged in order to grant anticipatory bail and the only point to be considered is whether a reasonable apprehension of arrest by the petitioner that he may be arrested and paraded in the general public and he being humiliated would cause irreparable loss to the petitioner, so thus when such being the situation under the circumstances, the petitioner is entitled for grant anticipatory bail. Hence, for the reasons mentioned and discussion made above, the petitioner has made out a valid ground for grant of relief U/sec.438 of Cr.P.C.. In view of the above, I answer the above point in the affirmative and proceed to pass the following:

ORDER

The petition filed by the petitioner under Section 438 of Cr.P.C seeking anticipatory bail is allowed.

The petitioner shall be released on anticipatory bail in the event of his arrest by the respondent police in Cr.No.173/2022 on he executing personal bond for Rs.1,00,000/- with two separate sureties for the like sum to the satisfaction of the investigating officer with the following conditions :

1. The petitioner shall not tamper with the prosecution witnesses directly or indirectly.
2. The petitioner shall assist the I.O. and appear before him as and when called for investigation.
3. The petitioner shall appear before the investigating officer within 30 days from the date of this order and shall execute the bonds.

(Dictated to the judgment writer directly on computer and print out taken by her. Corrected and signed by me. Then order pronounced in the open Court on this the 13th day of October 2022.)

(G.V.Chandrashekhar)
VI ADDL. SESSIONS JUDGE
TUMAKURU.