

IN THE COURT OF THE PRINCIPAL CITY CIVIL AND  
SESSIONS JUDGE, AT BENGALURU

**DATED THIS THE 6<sup>th</sup> DAY OF JULY, 2020**

**PRESENT:** SRI. ANIL B. KATTI,  
B.Com., LL.B (Spl),  
Principal City Civil and Sessions Judge,  
Bengaluru.

**S.C. No.1177/2014**

**COMPLAINANT** : **The State of Karnataka**  
by Subramanyapura Police Station,  
Bengaluru

*[Rep. By Public Prosecutor]*

Vs.

**ACCUSED** : **Balaraju @ Raju**  
S/o. Thimmegowda,  
Aged about 34 years,  
R/at. C/o.Puttaswamy,  
Back to Sathyagrahasoudha,  
Behind Government School,  
Shivapura, Maddur Town,  
Maddur Taluk,  
Mandya District.

*[By Sri. Nataraj D, Advocate]*

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**ORDER**

The present bail application is filed by the accused under Section 439 of Cr.P.C., for grant of bail.

2) The germane facts leading to the case of accused can be stated in a nutshell to the effect that on the strength of the complaint filed by Sri.B.S.Praveen S/o. B. Sampangi Shetty, criminal law was set into motion by registering the case in Subramanyapura Police Station Crime No.352/2014 for offences punishable under Sections 302 and 201 of IPC.

3) The accused has contended that he has been falsely implicated in this case without there being any basis. The accused has not assaulted on Sundar by means of axe over the head and committed his murder as alleged in the charge-sheet. The accused was released on bail in view of the order of this court dated 18.6.2015. Thereafter, the accused could not appear before the court on account of family dispute. The court noting the absence of accused has issued NBW against accused. The same was executed

and produced before the court on 27.9.2019, since then he is in judicial custody. The accused undertakes to appear before the court and abide by any terms and conditions that may be imposed by the court in the event of accused releasing on bail. Therefore, prayed for grant of bail.

4) In response to the notice, the learned Public Prosecutor has appeared for respondent and filed objections contending that the averments made in the application are all false, frivolous and not maintainable in law. The accused has mis-used the bail granted by this court dated 18.6.2015 and violated bail conditions. The whereabouts of the accused were not known for almost more than 5 years and his sureties could not produce the accused before the court as per the bail bond. The accused has absconded from the process of law and there was no any progress in the trial of the case for want of accused before the court. If the accused is ordered to be released on bail, he may abscond from the process of law and tamper with the prosecution witnesses. Therefore, prayed for rejection of the bail application.

5) Heard the arguments of both sides.

6) On the basis of above narrated facts, the following points arise for the determination of the court.

Point No.1: Whether the accused is entitled for bail?

Point No.2: What Order?

7) My findings on the above points are as under:

Point No.1: In the Negative.

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

### **REASONS**

8) **Point No.1:** On the strength of the complaint filed by Sri.B.S.Praveen S/o. B. Sampangi Shetty, criminal law was set into motion by registering the case in Subramanyapura Police Station Crime No.352/2014 for offences punishable under Sections 302 and 201 of IPC. It is not in dispute that the accused was already released on bail in view of the order passed by this court dated 18.6.2015. The accused has contended that on account of

his family disputes he could not appear before the court and the absence before the court was not deliberate one.

9) The committal records in this case are received on 30.10.2014. The accused was secured before the court under body warrant. Thereafter, the bail was granted to accused by the order of this court dated 18.6.2015. The accused has appeared only once before the court on 17.10.2015 and thereafter he has not appeared before the court. The accused was secured before the court only on 27.9.2019 after executing the NBW issued against him. The learned counsel for the accused in support of his contention that accused is entitled for bail in the given circumstance of the case relied on the decision of our own High Court in Crl.P.5598/2019 Shiva @ Shivakumar S/o. Murthy Vs. The State of Karnataka, dated 17.9.2019 and another decision in Crl.P.3639/2019 Vinod Kumar @ Vinod S/o. Lawrence Vs. State, dated 16.9.2019, so also the decision of Hon'ble Rajasthan High Court reported in Crimes 1984(1) page No.470 Makhan Lal vs. The State of Rajasthan. I have carefully gone through the principles

enunciated in these decisions wherein the bail has been granted to the accused who has violated the bail conditions looking to the facts involved in the said cases.

10) In the present case, the order sheet maintained by this court would go to show that NBW issued against the accused right from 21.12.2015 till he was produced before the court on 27.09.2019 for four years could not be executed, since he was not available in the given address and has absconded from the process of law. The notices issued to both the sureties were also not served. One surety by name L.N. Ramesh as per the endorsement dated 28.11.2018 is reported to be dead. The separate proceedings have been initiated against another surety under CrI.Misc.4394/2018. It means that the accused as well as both his sureties have committed violation of bail bond. The accused who is aware about the pending case against him was supposed to appear before the court on every date as per the undertaking of the bail bond in pursuance of the order passed by this court. The explanation offered by the accused that on account of his

family disputes, could not appear before the court for four years cannot be accepted as a justifiable grounds to remain absent before the court and to stall the trial against him. The endorsement of the police authority on the returned warrant issued against the accused would go to show that the accused has absconded from the process of law and was not available for arrest in the given address to execute the warrant. The case is of more than 5 years old and looking to the conduct of the accused in not appearing before the court in spite of his knowledge that he is facing the trial, there is every reason to believe that if the bail is granted, again the accused may mis-use the same and stall the further proceedings. Hence under these circumstances, in my opinion, the accused is not entitled for bail and consequently point No.1 for determination is answered in negative.

11) **Point No.2:** In view the reasons assigned while dealing with Point No.1, I proceed to pass the following:

**ORDER**

The bail application filed by the accused under Section 439 of Cr.P.C., is hereby rejected.

(Dictated to the Judgment Writer on-line directly on the computer, computerized by her, the same is corrected, signed and then pronounced by me in the open Court on this the 6<sup>th</sup> day of July, 2020).

**(ANIL B. KATTI)**

Principal City Civil & Sessions Judge,  
Bengaluru.

\*pst/-