

IN THE COURT OF THE IV ADDL. CITY CIVIL AND SESSIONS
JUDGE MAYOHALL UNIT, BENGALURU (CCH-21)

Dated: This the 24th day of July 2020

PRESENT:

Sri. MOHAMMED MUJEER ULLA C.G. B.A. LL.B.
IV Addl. City Civil and Sessions Judge, Bengaluru
(CONCURRENT CHARGE)

C. MISC. 25406/2020

PETITIONER :	<i>Sri. Bharat, S/o. Suresh Aged about 24 years R/at: No.7th Cross, Anepalya, Bangalore – 560 047. <u>Permanent Address:</u> #E.22,8th Cross,Begur Road, Behind Krishna Theatre, Bommanahalli Bangalore – 560 068.</i>
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V/s

COMPLAINANT :	<i>STATE BY ASHOKNAGAR POLICE STATION</i> <i>Bengaluru</i>
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ORDERS

*Petitioner has filed the instant petition U/Sec.439 of Cr.P.C for
grant of bail.*

2. *The learned Public Prosecutor filed objections.*
3. *Heard the arguments on both side and perused record.*
4. *The point for consideration is:*

*Whether the petitioner is entitled for
bail?*

5. *My finding on the above point is in the AFFIRMATIVE
for the following:*

REASONS

6. *The case of the prosecution is that on 23.03.2020 at about 2-30 pm the while the petitioner was participating in the funeral procession of Sri. Arjun Rao, the father of CW.3 Rajarao, the deceased Nithin Kumar who was also participating in the said procession bursted crackers in front of the procession near Cristian Graveyard, Shanthinagar, Bengaluru. The petitioner went near Nithin Kumar and told him not to burst the crackers in front of the procession go to the side of the procession and burst the crackers. The deceased did not listen the words of petitioner and he questioned the authority of petitioner to advice him not to burst the crackers. At*

that time the petitioner given punch to Nithin Kumar. Accused No.1 Prayag who was along with petitioner, threatened the deceased by saying that how dare he to question the petitioner's authority to advice/tell him not to burst crackers when all the residents of the locality give respect to the petitioner and listen his words. So saying the the accused Prayag removed knife from his pant pocket and stabbed to deceased Nithin Kumar . Due to which Nithin Kumar sustained grievous injury to his left eye. He was taken to St. John hospital. There he took treatment as inpatient and underwent surgery. After surgery he went to coma and succumbed to injury on 5.4.2020 at 3-30pm. In this regard, the mother of petitioner has lodged complaint to the police. On the basis of the said complaint, the SHO of Ashoknagar Police station registered the case in Cr.No.108/2020 and after investigation charge sheet was levied for the offence punishable u/s 302 r/w sec.34 of IPC. On the basis of the said charge sheet C.C.No.52894/2020 was registered. In the FIR the petitioner Bharat is shown as accused No.1. In the charge sheet he is shown as accused No.2.

7. The learned public prosecutor has filed objection contending that, the petitioner has committed the offence punishable u/s 302 of IPC which is punishable with death or imprisonment for life. After investigation, charge sheet was levied against him for the said offence. There is sufficient material on record to show that the petitioner committed the offence punishable u/s 302 of IPC. If the petitioner is released on bail, he will tamper with the prosecution witnesses and also abscond. On these and other grounds, learned public prosecutor prays to dismiss the instant petition.

8. A perusal of record would show that, petitioner was arrested on 25.03.2020. He was remanded to Police custody for 15 days and thereafter, he was remanded to Judicial Custody. Thus, the petitioner is behind the bars since 4 months.

9. From the material on record would show that the incident was occurred when the petitioner was participating in the funeral procession. There is no enmity or animosity between deceased and petitioner. Therefore, the petitioner has no intention to commit

murder of deceased. In the charge sheet it is stated that petitioner and deceased were friends. The eye-witnesses in their statements have stated that in the alleged incident, the petitioner has only given punch to the deceased. Except that he did not do any act with an intention to cause the death of Nithin Kumar. From the post-mortem it is clear that Nithin Kumar has not died due to the punch alleged have been given by petitioner.

10. Petitioner has produced his Aadhar card, Ratio card and employment card. A perusal of the same would show that he is the resident of Bengaluru and working as Gim Instructor in Indofit Solutions Pvt. Ltd., Company. The age of the petitioner is 24 years. He is unmarried. He is residing along with his parents. There is no criminal antecedents against him. The investigation is already completed. Therefore, the presence of petitioner is required before the court to face the trial. If he is released on bail by taking tangible surety, his presence can be secured. The other apprehensions raised by learned PP can be suitable safeguarded by imposing conditions. In view of the above, having regard to the age of the petitioner and

his role in the alleged incident, I am of the view that he can be released on bail by imposing conditions to safeguard the apprehension raised by learned PP. In view of the above, I answer the point for consideration in the *AFFIRMATIVE* and pass the following:

ORDER

*The Petition filed by the petitioner
U/Sec.439 Cr.P.C., is allowed.*

*Petitioner is ordered to be released on
bail in Cr.No.108/2020 of Ashoknagar Police
Station for the offences punishable
U/Sec.302 of IPC on execution of bail bond
in a sum of Rs.1,00,000/- with 2 sureties of
like sum each subject to the following:*

CONDITIONS

- 1. Petitioner shall not tamper or intermeddle
with the prosecution witnesses.*
- 2. He shall appear before the court regularly
without fail.*

3. *He shall not involve in any criminal activities.*
4. *He shall produce Aadhaar Card/Identity Card, contact number and photo of himself and his sureties while executing bail bond.*
5. *He shall not leave the jurisdiction of the Court without prior permission.*
6. *He shall not change his residence without prior permission of the Court.*

[Dictated to the Judgment-Writer, after computerization corrected, signed and then pronounced by me in the open Court on this the 24th day of July 2020]

[MOHAMMED MUJEER ULLA C.G]
C/C IV Addl. City Civil Judge,
Mayo hall, Bengaluru (CCH 21)