

**IN THE COURT OF THE XXVIII ADDL. CITY CIVIL & SESSIONS
JUDGE
Mayo Hall, Bengaluru, [CCH.NO.29]**

Present: - Sri. Krishnaji Baburao Patil, B.Com.,LL.B.,(Spl.)

Dated: This the 10th day of July 2020

Crl.Misc.No.25401/2020

Petitioner:

Lokesh M,
Son of Muthyalappa,
Aged about 26 years,
Residing at No.402,
2nd Main Road, 2nd Cross,
Halle Bayappanahalli,
Bangalore.

Native of
Lokesh M,
Singatta Kadirenahalli Village,
Nandi Post,
Chikkaballapura-562103.

(Pleader By : Sri. G.S. Sudhakar REdy)

.. Vs ..

Respondent:

The State of Karnataka by
Mahadevapura Police Station,
Bengaluru.

(By Public Prosecutor)

ORDERS

The present Petition is filed by the Petitioner who is the accused No.6 in this case under Section 439 of Cr.P.C., for bail on the ground that, the Respondent Police have filed charge sheet against the accused persons for the offences punishable under Sections 143, 341, 302, 109, 120(B) r/w Section 149 of IPC.

2. The case of the Prosecution is that, on the basis of the complaint filed by the Complainant Rajashekar K S/o Ramaswamy K, on 3.2.2020 alleging that his brother Lakshman Kumar, who was working as a Software Engineer in Sobe Company in Belandur, he used to travel in his Activa Scooter on his own from his home to his Company. At about 10.00 a.m., he received call from his brother Lakshman Kumar and somebody informed him that his brother was assaulted near flyover of Mahadevapura, Ring Road. Immediately the Complainant rushed to the said place and enquired and came to know that his brother Lakshman Kumar was assaulted by Prashanth and Prem and others. He further alleged that the above persons followed his brother and stabbed with knife at multiple place and caused serious injuries. Thereafter, the Police and Public shifted the

injured to Vydehi Hospital for treatment. The Complainant went to Vydehi Hospital and saw his brother injured on his chest, stomach and leg. The Complainant lodged complaint against Prashant and Prem who tried to murder his brother Lakshman Kumar. Subsequently, the injured died and second complaint was filed by the same Complainant.

3. The Petitioner has contended that he is innocent of the charge leveled against him, the persons who are inimical towards him have foisted false case at the instance of Respondent Police, in fact the Petitioner is not having enmity with deceased or he was participated in the above said crime. The Police without enquiry his name was falsely implicated based on the voluntary statement of co-accused. As per the Prosecution accused No.1 is the relative of CW.1 and deceased Lakshman Kumar, the accused No.1 is the brother-in-law of deceased wife CW.6 Smt. Sreeja and he is having crush on Smt.Sreeja. Hence, he wanted to eliminate deceased, on that intention with the help of his henchmen in the month of July 2019 he made murder attempt against deceased Lakshman Kumar, fortunately he escaped from the said bid, thereafter

accused No.1 hatched conspiracy with accused No.4 Dinesh and gave supari to kill Lakshman, the said information was told by accused No.4 to his wife accused No.10, thereafter accused No.4 with the assistance of his henchmen i.e., accused No.2, 3, 5, 6, 7, 8 and 9 made conspiracy to kill Lakshman Kumar and gave the details and photo of deceased to their henchmen. The Prosecution further alleges that on 3.2.2020 at about 9.30 a.m., Lakshman Kumar left his house on his Honda Activa Vehicle bearing No.KA-53-EK-2956, at that time accused No.2 & 3 who watched the deceased Lakshman Kumar followed in their Honda Deo Scooter, further accused No.4, 6, 7, 8 and 9 are followed the deceased in their Hundai Xcent Car, the accused No.5 followed in his Swift Car, thereafter near flyover, Mahadevapura Ring Road, accused No.2 and 3 are waylaid the deceased Lakshman Kumar at about 10.00 a.m., and at that time accused No.2 who tried to kill the deceased with his knife, by seeking the same deceased jumped from his vehicle and runaway, the accused No.2 chased the deceased and stabbed his abdomen, back, waist, shoulder, thighs and armpit and caused bleeding injury. Thereafter, public and Cheetha patrolling police arrived at the spot, by seeing them accused No.2 and 3 ran away from the spot

and even the other accused who came in car also fled from the scene of offence. Thereafter, the Police and CW.4 & 5 shifted the deceased to Vydehi Hospital and the deceased was succumbed to the injuries. On 9.2.2020 accused No.2 and on 19.2.2020 the accused No.3, 4, 6, 7 and 8 were arrested and also the accused No.1, 5 and 10 were arrested in the said case and the incriminating materials have been seized in respective Pfs. The investigation is over and charge sheet is filed in this case. In the entire investigation against present Petitioner there is no specific overt acts, except omnibus statement which is inadmissible under law, in fact the entire investigation is completed and charge sheet is filed. The Prosecution witnesses are all relatives and colleagues of deceased, such being the case question of tampering the witnesses does not arise. Even accused No.7 was enlarged on bail by the Hon'ble High Court of Karnataka in Crl.Pet.No.2512/2020 and accused No.1 was enlarged on bail by this Hon'ble Court in Crl.Misc.No.25261/2020 on 23.6.2020. On the ground of parity this Petitioner also entitled for bail. The Petitioner contends that he came from very respectable family having deep roots in the society and he is permanent resident of address shown in the cause title. The Petitioner is labor by

profession and he is having aged and ailing parents. The Petitioner is the bread earner of his family, in his absence there is no male member to look after his family members. The investigation is completed and charge sheet has been placed before the Hon'ble Court. Even there is no prima-facie case is made out against this Petitioner and question of tampering the Prosecution witnesses does not arise because all are relative witnesses to deceased. The Petitioner is ready and willing to offer surety to the satisfaction of this Court and ready to abide by the conditions that may be imposed by this Court. Hence, prayed for allowing the Petition.

4. For the said Petition the Learned PP has filed objections contending that the contents of the Petition are false and denied in toto. On the basis of the complaint Police have registered the case and arrested the Petitioner for the offences punishable under Section 302, 307 r/w Section 34 of IPC. And after the investigation filed charge sheet against the Petitioner and others for the offences punishable under Section 143, 341, 302, 109, 120(B) r/w Section 149 of IPC. The Complaint, FIR, Charge Sheet and other documents may be treated as part of the objection.

The offences are non-bailable in nature and punishable with death sentence. The Petitioner during the interrogation has confessed that he has involved in the offence. The Petitioner may tamper the Prosecution evidence and win over the witnesses if he is released on bail. This would affect the trial of the case. If the Petition is allowed there is a chance of his abscondance. Hence, prays for dismissing the Petition.

5. On the basis of the above, the point that arises for my consideration are:-

- 1) Whether the Petition deserves to be allowed?
- 2) What order?

6. My answer to the above points are :

Point No.1 : In the Affirmative

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

REASONS

7. The present Petition is filed by the Petitioner/accused No.6. The offences alleged against the Petitioner are under Section 143, 341, 302, 109, 120(B) r/w Section 149 of IPC. On

perusal of the complaint, the name of this present Petitioner is not mentioned. The accused is involved in the present case, only on the basis of the voluntary statement of the alleged co-accused. No overt act is alleged against the Petitioner in the present petition. In the present case, already investigation is over and charge sheet has been filed on 21.4.2020. This accused is arrested on 19.2.2020 and produced before the Jurisdictional Magistrate and remanded to judicial custody. As already stated above, charge sheet is filed on 21.4.2020. Considering the facts and circumstances of the case, the accused is entitled for bail as per Section 167(2) of Cr.P.C., The Petitioner has also produced the certified copy of the order passed by Hon'ble High Court of Karnataka in Crl.Pet.No.2512/2020 by granting bail to accused No.7. He has also produced the certified copy of the order granting bail to accused No.1 passed by this Court in Crl.Misc.No.25261/2020 on 23.6.2020. Considering the facts and circumstances of the present case, Petitioner is entitled for bail as prayed in the present petition. Since accused No.1 and 7 are already been released on bail, on the ground that no overt act is alleged against the said accused persons, on the ground of parity, this

Petitioner/accused No.6 is also entitled for bail as prayed for in the present Petition. Hence, I answer Point No.1 in the Affirmative.

8. **Point No.2**:- In view of the discussion made above, I proceeds to pass the following:-

ORDER

The Petition filed by the Petitioner under Sec.439 Cr.P.C., is hereby allowed.

The Petitioner /accused No.6 Lokesh M S/o Muthyalappa is ordered to be released on bail in Cr.No.41/2020 of Mahadevapura Police Station on execution of personal bond for Rs.1,00,000/- with two sureties for likesum to the satisfaction of Jurisdictional Magistrate on the following conditions:-

1) The Petitioner shall co-operative with IO in investigation of the present case.

2) The Petitioner shall not tamper the prosecution witnesses in any manner.

3) The Petitioner shall not leave India without prior permission.

4) The Petitioner shall appear before the Court on every date of hearing.

5) The Petitioner shall not change his residential address without prior permission of the Court.

6) The Petitioner shall produced his original residence proof at the time of execution of surety bond.

[Dictated to the Stenographer, thereafter transcribed and typed by the Stenographer and the same was corrected, signed and then pronounced by me in the open Court on this the **10th day of July 2020**].

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

Orders pronounced in open court
as under (vide separately):-

ORDER

The Petition filed by the Petitioner under Sec.439 Cr.P.C., is hereby allowed.

The Petitioner /accused No.6 Lokesh M S/o Muthyalappa is ordered to be released on bail in Cr.No.41/2020 of Mahadevapura Police Station on execution of personal bond for Rs.1,00,000/- with two sureties for likesum to the satisfaction of Jurisdictional Magistrate on the following conditions:-

- 1) The Petitioner shall co-operative with IO in investigation of the present case.
- 2) The Petitioner shall not tamper the prosecution witnesses in any manner.
- 3) The Petitioner shall not leave India without prior permission.
- 4) The Petitioner shall appear before the Court on every date of hearing.
- 5) The Petitioner shall not change his residential address without prior permission of the Court.

6) The Petitioner shall produced his original residence proof at the time of execution of surety bond.

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.