

13.09.2022

Accused is present.

Sri.LNS Advocate has filed vakalath on behalf of the accused and bail petition U/Sec. 436 of Cr.P.C.

Further he has also filed Surety Affidavit, declaration, Aadhaar card, RTC extract of the surety, **Aadhaar card of accused** and prays to release the accused on bail.

**ORDERS ON BAIL APPLICATION OF THE ACCUSED FILED U/SEC. 436 OF CR.PC.**

1. I have carefully perused the entire record. The complainant alleges that the accused has committed the offences punishable U/Sec.138 of Negotiable Instrument Act. But the trustworthiness of the allegations of the complainant will be tested at the time of trial. However, at this point of time the court is required to know that, whether the accused person is entitled to be released on bail or not. With a view to find out an answer to this question, again I have carefully perused the record and it is noticed that, out of the alleged offences, all are bailable in nature.

2. Recently the Hon'ble Apex Court in **2018(1) S CeJ 300** in between **Dataram Singh Vs. State of Uttar Pradesh and another** has discussed the historical background of the provision for bail wherein a reference was made to a decision **AIR 1924 Cal 476** in between **Nagendra Vs. King-Emperor** wherein it is held that, bail is not to be withheld as a punishment. A reference is also made to a decision **AIR 1931 ALL 356** in between **Emperor Vs. Hutchinson** wherein it is held that, grant of bail is a rule and refusal is an exception. It is further observed in case of **Dataram Singh Vs. State of Uttar Pradesh and another** as follows:

*Criminal jurisprudence - " A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home*

*(whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society”.*

The above observation clearly goes to show that bail is a rule and jail is an exception, bail cannot be withheld as a means of punishment and pre-trial conviction should be avoided so as to safeguard the personal rights and liberties of the accused person as enshrined in Article 21 of Constitution.

3. Besides, the alleged offences are exclusively triable by this court. Having regard to these facts and circumstances of the case, I feel that the **accused person** is entitled to be released on bail.

4. However, in my opinion, the court has to take precautions to secure the presence of the **accused person** during trial. In my considered view by imposing conditions on the accused person while releasing him on bail his presence can be secured before this court on all hearing dates, by this court can safeguard the

interest of the complainant. Therefore, I pass the following,

**::ORDER ::**

The bail application U/Sec. 436 of Cr.P.C. filed by the accused is allowed on following conditions:

- 1) The accused shall execute bond for Rs.25,000/- along with one surety for the likesum.
- 2) He shall not hamper the complainant case.
- 3) He shall furnish any of the document of his choice with regard to his address proof.

Surety by name Hanamanth S/o. Gopal Sanshi, Age.50 years, Occ.Agriculture, R/o. Ward No.7, Lokapur, Tq.Mudhol is present. He submits that he is ready to stand as a surety for the accused. He has produced surety affidavit and RTC Extract of land bearing Sy.No.15/1+2D, standing in his name, measuring 01A-21Gs., situated at Shiraguppi village of Anagawadi Hobli, Tq.Bilagi and xerox copy of Aadhaar card is also furnished. His surety-ship is satisfactory and accepted.

Office is directed to take bail bonds  
respectively.

Sd/-

Prl. Senior Civil Judge & JMFC,  
Mudhol.