

IN THE COURT OF PRINCIPAL DISTRICT &
SESSIONS JUDGE, BENGALURU RURAL DISTRICT,
BENGALURU.

Dated this the 5th day of October 2021

PRESENT

Sri T.N. Inavally, B.A.L., LL.B.
Principal District & Sessions Judge
Bengaluru Rural District,
Bengaluru.

Sessions Case No.138/2021

Complainant : State of Karnataka
by Byadarahalli Police.

(Represented by the learned Prosecutor)

Vs.

Accused No.1 : Rajesh @ Loose
S/o Venkatesh,
Aged about 23 years,
R/at Church Road,
Ullalu Upanagara,
Kengeri, Bengaluru city.

*(Represented by
Sri A.S. Kulkarni, Advocate)*

ORDER ON THE BAIL APPLICATION FILED UNDER
SECTION 439 OF THE CODE OF CRIMINAL PROCEDURE

This bail application is filed by the accused No.1 under
Section 439 of the Code of Criminal Procedure ('Cr.P.C.' for

short), praying for an order to enlarge him on bail in the interest of justice.

2. The contention of the accused No.1 is that he is innocent of the offences alleged against him. The offences alleged, though non-bailable, are not punishable with death or imprisonment for life. The FIR was registered against 3 unknown persons. The accused No.1 is falsely implicated in this case. The accused No.1 was shown to the alleged eyewitnesses in the police station for the purpose of identification and no test identification parade was held. The Hon'ble High Court of Karnataka has granted bail to the accused No.3 as per the order dated 14.09.2021 in CrI.Petn.No.5056/2021 and to the accused No.6 as per the order dated 23.08.2021 in CrI.Petn.No.4707/2021. Hence, the accused No.1 is entitled to bail on the ground of parity. He is permanent resident of Bengaluru city and he is ready and willing to abide by any conditions that may be imposed by this Court and he is also ready and willing to furnish surety to the satisfaction of this

Court. Therefore, the accused No.1 has prayed for allowing the application.

3. The notice of this application is furnished to the learned Prosecutor and he has filed objections in detail submitting that this application is not maintainable in law or on facts of the case and for the reasons stated in the objections, the learned Prosecutor has prayed for dismissal of the bail application.

4. Heard the arguments of the learned counsel for the accused No.1 and also the learned Prosecutor on the bail application. Perused the relevant materials on record. Now the points that arise for my consideration are:

- 1) *Whether the accused No.1 has made out any ground for enlarging him on bail under Section 439 of Cr.P.C., as prayed for in the bail application?*
- 2) *What order?*

5. After hearing the arguments of both the parties and on considering the relevant materials on record, my findings on the above points are as hereunder:

Point No.1 : In the affirmative

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

REASONS

6. **POINT No.1**: The offences charge-sheeted against the accused No.1 along with other accused persons are punishable under Sections 395, 397, 427, 450 of Indian Penal Code ('IPC' for short) and Section 4 and 25 (1b) and (b) of the Arms Act and Section 2 of the Prevention of Destruction and Loss of Property Act, 1981 ('the PDLP Act' for short). The case alleged against the accused persons, as per the charge sheet is that on 17.01.2021 at 9.15 p.m. when the complainant C.W.1 Anil was in his office at Ninja Cart, D.S. Max apartment, near Bilekallu with C.W.2 Shariff and C.W.6 Shivaprasad, the accused No.1 armed with a Long, the accused No.6 armed with a knife, the

accused No.3 being armed with an iron Long and the accused No.4 armed with a chopper came near the office of the complainant in three two-wheelers. The accused No.2 was keeping watch outside the office and the accused No.1, 3 and 4 entered into the chamber of C.W.1 and C.W.2 and the accused No.3 threatened C.W.2 at Long point and the accused No.1 put Long at the neck of C.W.1 and asked him to show the cash and accordingly when C.W.1 pointed towards the cash-drawer, the accused No.4 robbed cash of Rs.6.5 Lakhs and the accused No.1 robbed a laptop, cash counting machine and damaged the CCTV camera. In the mean time, the accused No.5 to 7 entered into another room in the office and threatened C.W.3 to C.W.6 and robbed cash and mobile phones from them and when C.W.6 resisted to part with mobile phone, the accused No.6 stabbed on his hand with knife and thereafter, all the accused fled away from the spot. Based on the complaint lodged by C.W.1, the respondent police registered the case in their Crime No.31/2021 for the offence punishable under Section 392 of IPC. After

completion of investigation the respondent police have filed charge sheet against the accused persons for the offences punishable under Sections Sections 395, 397, 427, 450 of IPC, Section 4 and 25 (1b) and (b) of the Arms Act and Section 2 of the PDLP Act.

7. The contention of the accused No.1 is that he is innocent of the offences alleged against him and he has not committed any such offences. But, as submitted by the learned Prosecutor, the investigation is already over and the I.O. has filed charge sheet against the accused No.1 along with other accused persons for the alleged offences. Hence, at this stage, any of the contentions of the accused No.1 that he is innocent of the offences alleged against him does not stand for consideration on the facts of the case and also in law.

8. However, for the sake of argument, even if it is accepted that there is prima facie materials against the accused No.1 for the offences charge-sheeted, the said offences are not

punishable with death or imprisonment for life, even though they are exclusively triable by this Court. The maximum punishment provided for the alleged offences is imprisonment for life or rigorous imprisonment for 10 years. Moreover, as pointed out by the accused No.1, the Hon'ble High Court of Karnataka as per the order dated 14.09.2021 in CrI.P.No.5056/2021 has granted bail to the accused No.3 and as per the order dated 23.08.2021 in CrI.P.No.4707/2021 has granted bail to the accused No.6. Therefore, the accused No.1 is also entitled to bail on the principle of parity.

9. Moreover, as per the papers on record, it is clear that the accused No.1 is resident of Gulakamale of Ullal Upanagara, Kengeri of Bengaluru city. Hence, the apprehension of the learned Prosecutor that there is chance of the accused No.1 fleeing away from justice, if he is released on bail, does not have legs to stand on the facts of the case. Further, the charge sheet is already filed in the case and hence, the accused No.1 is not required for any further investigation of the case.

10. Any of the apprehensions and the contentions put forth by the learned Prosecutor in his objection can be suitably met with by imposing proper and necessary conditions on the accused No.1 while granting bail to him. There is absolutely no any special ground made out either by the learned Prosecutor or by the complainant police to reject the present bail application filed by the accused No.1. Hence, the accused No.1 has made out sufficient ground to grant bail in his favour as sought for in the application. Consequently, the point No.1 is answered in the **affirmative**.

11. **POINT NO.2:** From the discussion made herein above, it is clear that this bail application deserves to be allowed. In the result, therefore, I proceed to pass the following:

ORDER

This bail application filed by the accused No.1 under Section 439 of Cr.P.C. is hereby allowed.

Consequently, the accused No.1 shall be enlarged on bail on his executing personal bond for Rs.2,00,000/- (Rupees Two Lakh only) with two solvent sureties for the like sum, to the

satisfaction of this Court, subject to the conditions that:

- 1) The accused No.1 shall appear before this Court in the case as and when directed.
- 2) He shall not tamper with the prosecution witnesses in any manner.
- 3) He shall not commit similar offences or any offence during pendency of this case, and
- 4) If the accused No.1 violates any of the conditions of bail during the pendency of the case, the bail granted in his favour shall stand cancelled.

*(Typed to my dictation by the Judgment Writer directly on Computer, and corrected and then pronounced by me in Open Court on this **the 5th day of October 2021**)*

(T.N. Inavally)

Principal District & Sessions Judge
Bengaluru Rural District,
Bengaluru.