

ORDER ON BAIL APPLICATION
OF ACCUSED NO.6

This is a bail petition filed under Section 439 of Cr.P.C. requesting to release the accused No.6 on bail. In the application it is mainly stated that the complainant police have registered the case against accused for the offence punishable Under Section 396 of Indian Penal Code, but the accused is innocent and he has been falsely implicated in the case at the instance and instigation of the persons who are not in good terms with him. Further in the petition it is contended that the accused is law abiding citizen and he has no bad antecedents and the alleged offences against him are not punishable with death or life imprisonment. Further in the petition it is contended that the accused was earlier released on bail but due to ill health he could not appeared before the court and so NBW was issued against the accused. Further in the petition it is contended that on 25-02-2020 the accused No.6 voluntarily appeared before the court by filing application for re-calling NBW, but the said application came to be rejected and accused No.6 has been remanded to J.C. Further in the petition it is contended that the accused is permanent resident of Bangalore having permanent abode and he is ready to abide by any conditions that may be imposed for

releasing him on bail and hence prayed for allowing the petition.

2. Learned Public Prosecutor filed objections to said bail petition. In the objection, learned Public Prosecutor after narrating the prosecution case mainly contended that the accused has involved in several cases of theft, robbery and dacoity. Further in the objection it is contended that accused was earlier released on bail and since he had remained absent during trial, non bailable warrant was issued against the accused and now accused is in J.C. and if accused is released on bail, he may abscond and commit the same nature of offences in future and trial will be delayed and hence prayed for rejecting the petition.

3. Heard arguments from both side and perused the prosecution papers made available on record.

4. The points that arise for my consideration and determination are as under:

- 1) Whether bail petition filed by accused No.6 deserves to be allowed?
- 2) What Order?

5. My answers to the above points are as under:

Point No.1 : In the Affirmative;

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

REASONS

6. **POINT No.1:**

It is an admitted fact that earlier accused No.6 was released on bail. Perusal of order sheet dated 10-02-2020 discloses that when the prosecution witnesses were present before the court, at that time neither accused No.6 nor his Advocate was present and so said witnesses were directed to come after receipt of summons and NBW was issued against accused No.6. Further order sheet dated 25-02-2020 discloses that accused No.6 was voluntarily present before the court and Advocate for accused No.6 filed application Under Section 70(2) of Cr.P.C. for recalling NBW issued against accused No.6. Said application came to be rejected and accused No.6 was remanded to J.C., by canceling his bail and till today accused is in J.C. It is contended by the accused No.6 that because of his ill health he had not appeared before the court on hearing date and so warrant was issued against him. Further, it appears that when accused No.6 appeared voluntarily on the next date of hearing before the court, he was taken into J.C. by canceling his bail for violating the bail

conditions as he had remained absent during trial.

7. Anyway, from 25-02-2020 till today accused is remained in J.C. So he has suffered for violating earlier bail conditions. Now accused is ready to furnish surety for his appearance before the court during trial and he is ready to abide by any conditions that may be imposed for releasing him on bail. Due to COVID-19, courts are not working as usual and so recording of evidence of prosecution witnesses is not possible and so there is no possibility of concluding of the trial by recording the remaining prosecution witnesses in this case. Moreover, material witness C.W.16 who is examined as P.W.11 for showing involvement of accused No.6 in the case has turned hostile to prosecution case. So considering the facts and circumstances of the case and for the reasons stated supra, I am of the considered opinion that accused No.6 has to be released on bail by imposing certain conditions which would meet the apprehensions raised by prosecution. Hence Point No.1 is answered in the Affirmative.

8. **POINT No.2:** In view of my answer on Point No.1 and for the forgoing reasons, accused No.6 petition filed Under Section 439 of Cr.P.C has to

be allowed. In the result, I proceed to pass the following:

ORDER

Petition filed under Section 439 of Cr.P.C by accused No.6 is hereby allowed.

Accused No.6 shall be released on bail on executing his personal bond for a sum of Rs. 1,00,000/- with solvent surety for like sum with following conditions:

- 1) Accused No.6 shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade him/her from disclosing such facts to the court.
- 2) Accused No.6 shall not commit same nature of offences in future and he shall not involve himself in any kind of criminal activities.
- 3) Accused No.6 shall not remain unauthorized absent during trial.
- 4) Accused No.6 shall furnish his photo identity proof of himself and his surety.

(V.M.Pawale)
I Addl. District & Sessions Judge,
Bengaluru Rural District.
Bengaluru.

S.C. No.46/2015

Call on 03.07.2020

I Addl. District & Sessions Judge,
Bengaluru Rural District.
Bengaluru.