

**IN THE COURT OF VI ADDITIONAL DISTRICT AND
SESSIONS JUDGE, BENGALURU RURAL DISTRICT,
BENGALURU.**

Dated this the 28th day of April 2021

PRESENT: Shri Mohan Badagandi,
B.Com., L.L.B.(Spl),
VI Add. Dist. & Sessions Judge,
Bengaluru Rural District, Bengaluru.

S.C.No.57/2021

Complainant : State of Karnataka by
Madanayakanahalli Police.

Represented by
Public Prosecutor.

Vs.

Accused : Gurumurthy,
Aged about 51 years,
R/at Madanayakanahalli village,
Dasanapura Hobli, Bengaluru
North Taluk, Bengaluru.

Represented by
Sri M.J.R., Advocate.

ORDER

The petitioner/Accused has filed the application under Section 439 of Cr.P.C seeking the relief of regular bail in S.C. No.57/2020 pending on the file of this Court/ Cr.No.501/2021 of Madanayakanahalli Police Station for the offence punishable under Section 307 of Indian Penal Code.

2. Brief facts are as follows: -

One Smt. Jamuna, is the complainant. It is stated that the complainant and accused are the wife and husband, previously accused obtained bail in Cr.No. 405/2019 of Madanayakanahalli Police Station filed by the complainant, after granting bail, he wished to take revenge against his wife. On 04.10.2019, in order to kill the complainant he visited the working place of complainant and hold machete in his hand, chased the complainant and assaulted with machete on her, she escaped from clutches of accused and went into near by school premise where accused stabbed complainant and she fell down at that time he tried to kill her, then she escaped from him. Hence, the complaint.

3. It is urged in the bail application that the accused is innocent. He has not committed any offence as alleged by the complainant. He is in judicial custody from the date of his arrest. Since charge sheet is filed and the case is committed to this Court, now pending for adjudication, the accused is no longer required for investigation. He is a permanent resident of the address shown in the cause title having deep root in the society, he hails from respectable family, he is ready and willing to abide by any terms and conditions that may imposed on him while granting bail to him.

4. Opposing grant of bail, State has filed detailed statement of objections. It is stated therein that there are reasonable grounds to believe that the accused has committed a heinous offence punishable under Section 307 of Indian Penal Code. Now the case for HBC shows prima facie case against the petitioner. If he is released on bail, he may abscond, threaten and tamper the prosecution witnesses and therefore, he is not entitled to be granted bail.

5. I have heard the learned counsel appearing for accused and the learned Public Prosecutor for the State. I have perused the case file.

6. After hearing, the point that arises for my consideration is:

Whether accused has made out a case for granting bail by resorting to the special powers vested in this court under Section 439 of Cr.P.C.?

7. My answer to the above point is in the affirmative.

REASONS

8. Prima-facie the complaint averments would indicate that the complainant and accused are the wife and husband, previously accused obtained bail in Cr.No. 405/2019 of Madanayakanahalli Police Station, for that, to take revenge against his wife. On 04.10.2019, in order to kill the complainant he assaulted with machete on her, she escaped from clutches of accused and went into near by school premise where accused stabbed complainant and she fell down at that time she escaped from him.

9. Prima facie, charge sheet averments indicate that the accused tried to committed the murder of his wife to take revenge in respect of quarrel took place between them.

10. The material collected during investigation would reveal that the weapon used, blood stained cloths etc., materials recovered on his information during police custody.

11. It appears that during the course of investigation, the Investigating Officer has arrested this accused/petitioner and now accused is in judicial custody. The Investigating Officer has recorded the voluntary statement of the accused and completed the investigation and filed charge sheet against the petitioner for the offences punishable under Section 307 of Indian Penal Code. The petitioner has produced copy of the charge sheet with petition.

12. The learned counsel for the petitioner has argued that the complaint filed by the Complainant in Cr. No.405/2019 and another Cr.No.534/2014 of

complainant police station, the accused already enlarged on bail. And the copy of the orders produced. Now, no further investigation is pending, accused is in judicial custody since the date of his arrest. The offences alleged against the accused are yet to be proved during the trial. The accused and victim are husband and wife, the relationship between them is strucked, Accused is permanent resident of address given in the charge sheet. The address of the accused is not so seriously disputed by the prosecution. The accused is ready and willing to abide by the conditions imposed by this court and ready to furnish the sureties to the satisfaction of the court.

13. The contention of the learned Public Prosecutor that the detailed charge sheet has been filed after completion of the investigation and charge sheet materials are sufficient to prove that the accused has committed the offences as alleged in the charge sheet. The alleged offence is heinous and punishable with imprisonment for life, so he is not entitled for bail. If enlarged on bail, he may threaten the prosecution witnesses and tamper the prosecution evidence, he may abscond and flee from justice. These apprehensions of the prosecution can be

met by imposing the stringent conditions on the petitioner.

14. The allegations made against the accused no doubt heinous. Already charge sheet has been filed. Undisputedly the victim is wife of accused, according to her the accused has committed offence by threatening her. The petitioner and victim are known to each other. The question before the court is whether the accused has committed the offences as alleged by the prosecution. It is the matter of trial. The trial against the accused is yet to be commenced and the trial takes considerable time. If accused keeps behind the bars, it amounts to the pre-trial detention. The accused is not required for further investigation and investigation officer has not requested this court that the presence of the accused is necessary for investigation. No purpose will serve if the accused put behind the bars. The accused himself undertakes to appear before the court and ready to abide by the conditions. So, the apprehension of the prosecution can be met by imposing stringent conditions and monitory burden on the accused. Therefore, having regard to the above said reasons and nature of the allegations and delay in lodging the complaint. Victim is married woman.

It is a fit case to extend the discretionary power to grant regular bail to the accused. Hence, I answer the above point in the affirmative and the following order is passed:

ORDER

The petition is allowed.

Petitioner shall be enlarged on bail in SC.No.57/2021/Cr.No.501/2021 of Madanayakanahalli Police Station on his executing a personal bond in a sum of Rs.1,00,000/- with one solvent surety for the like sum to the satisfaction of the court, subject to the following conditions.

1. He shall appear before the Investigating Officer on First Sunday of every month between 11.00 a.m. to 2.00 p.m. till completion of the trial.
2. He shall not abscond, threaten or tamper with prosecution witnesses.
3. He shall not commit similar offences in future.

4. He shall furnish Adhaar card and photos of himself and surety.
5. The prosecution has liberty to get cancelled this order, if petitioner violates any of the above conditions.

(Directly dictated to the Stenographer, transcribed by her, after corrections pronounced by me in Open Court on this the 28th day of April 2021)

(Mohan Badagandi)
VI Addl. Dist. & Sessions Judge,
Bengaluru Rural District, Bengaluru.