

**IN THE COURT OF ADDITIONAL DISTRICT AND SESSIONS
JUDGE, CHAMARAJANAGARA [SITTING AT KOLLEGALA]**

DATED THIS THE 15th DAY OF OCTOBER, 2022

Present

Sri. LOKAPPA. N.R., B.Sc, L.L.B.
Addl. District & Sessions Judge,
Chamarajanagara [Sitting at Kollegala].

Crl. Misc. No. 5272/2022

Petitioner : Shankar. M - [A6]
S/o Maadu,
Aged about 23 years,
R/o Koteyuru village,
VTC Gopinatham Beat & post,
Hanuru Taluk,
Chamarajanagar District.

[By Sri. M. Sampath Kumar, Advocate]

V/s

Respondent : State by M.M. Hills Police Station
Hanuru Taluk.

[Rep. by Public Prosecutor]

O R D E R

This is an application filed by the petitioner U/s. 438
of Cr.P.C. 1973, praying for grant of anticipatory bail.

2. Brief facts of the case in a nutshell, as per the FIR/complaint registered by the respondent police is that: "ದಿನಾಂಕ: 31-08-2022 ರ ರಾತ್ರಿ 11.00 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಗೋಪಿನಾಥಂ ಗ್ರಾಮದ ಆನಂದ್ ಬಾರ್ ಅಂಡ್ ರೆಸ್ಟೋರೆಂಟ್ ನ್ನು ಬಂದ್ ಮಾಡಲು ಸಿಸಿ-328 ಮತ್ತು 429 ರವರನ್ನು ಪಿಯಾದಿ ಕಳುಹಿಸಿದ್ದು, ಸ್ವಲ್ಪ ಸಮಯದ ನಂತರ ವಾಪಸ್ಸು ಬಂದ ಇಬ್ಬರು ಪಳನಿಸ್ವಾಮಿ ಎಂಬುವನನ್ನು ಹಾಜರುಪಡಿಸಿ ಈತ ಬಾರ್ ಬಂದ್ ಮಾಡಬೇಡಿ ಎಂದು ಗಲಾಟೆ ಮಾಡಿರುತ್ತಾನೆ ಎಂದು ವರದಿ ಮಾಡಿದರು. ಅಷ್ಟರಲ್ಲಿ ಗೋಪಿನಾಥಂ ಗ್ರಾಮದ ಇತರರು ಗುಂಪುಕಟ್ಟಿಕೊಂಡು ಬಂದು ಉಪರಾಣೆಯ ಒಳಗಡೆ ನುಗ್ಗಿ ನಮ್ಮ ಷಣ್ಮುಗಂ ನನ್ನು ಏಕೆ ಕರೆದುಕೊಂಡು ಬಂದಿರುತ್ತೀರಿ, ನಮ್ಮ ಗ್ರಾಮದಲ್ಲಿ ಮಾರಿ ಹಬ್ಬವಿದೆ ಬಾರ್ ನ್ನು ಏಕೆ ಬಂದ್ ಮಾಡಿಸಿರುತ್ತೀರಿ ಎಂದು ತನ್ನೊಂದಿಗೆ ಗಲಾಟೆ ಮಾಡಿ ಸಮವಸ್ತ್ರದಲ್ಲಿದ್ದ ತನಗೆ ಶಕ್ತಿ ಎನ್ನುವವನು ತನ್ನ ಕೈಯಿಂದ ತಲೆಯ ಮೇಲೆ ಹೊಡೆದನು. ನಂತರ ಉಪರಾಣೆಯಲ್ಲಿದ್ದ ಷಣ್ಮುಗಂ ರವರನ್ನು ಕರೆದುಕೊಂಡು ಹೋಗಿರುತ್ತಾರೆ. ಸದರಿ ದಿನಾಂಕದಂದು ಗೋಪಿನಾಥಂ ಉಪರಾಣೆಯಲ್ಲಿ ನಮ್ಮ ಕರ್ತವ್ಯಕ್ಕೆ ಅಡ್ಡಿಪಡಿಸಿ ತಮ್ಮ ಮೇಲೆ ಕೈಯಿಂದ ಹೊಡೆದು ಹಲ್ಲಿ ಮಾಡಿರುವ ಮೇಲ್ಕಂಡ ಅರ್ಜಿದಾರರ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಕೊಟ್ಟ ದೂರಿನ ಮೇರೆಗೆ ಈ ಪ್ರ.ವ.ವರದಿ". Thereby it is alleged that the petitioner was guilty of having committed the offence punishable U/s's. 143, 147, 323, 353, 332 R/w Section 149 IPC.

- 2[a]. The petitioner is apprehending his arrest at any time by the respondent police. He submits that he is innocent of the alleged offence and that he would

abide by all the conditions that may be imposed on him. He has prayed for his release on anticipatory bail in the event of his arrest by respondent police.

3. The learned Public Prosecutor has resisted the bail petition by filing statement of objections and has prayed for dismissal of the petition.
4. I have heard the arguments and perused the materials available on record.
5. Now, the following points will arise for my consideration and determination.
 1. *Whether the petitioner has made out a prima-facie case for grant of anticipatory bail as prayed for?*
 2. *What Order?*
6. My findings on the above said points are as under:
 - Point No.1: In the Affirmative.*
 - Point No.2: As per final order for following:*

REASONS

7. **Point No.1:** The petitioner has furnished certified copies of order sheet of the trial Court, FIR, complaint, remand application, arrest notice etc.,

8. Perusal of these documents clearly shows that, on the basis of a complaint lodged by Jayarama. K, Police Officer, the respondent police have registered a case in Cr. No. 37/2022 dated: 01-09-2022 against the petitioner & 9 others, wherein the petitioner is arrayed as A6.
9. On careful perusal of the complaint allegations, as per the prosecution's paper, the DAR van and officials of the DAR also came to the Gopinatham village on bandobusth duty to control the crowd on the eve of maari habba. But there is no complaint from the said peoples, except the local police officials regarding the alleged incident. Further, there is chance of the local police register the alleged complaint to control the mob on the basis of small incident held in between the local people. Further, the averment of the complaint itself surprise that, A1, 3 to 10 unlawfully entered into the police station and forcefully took the A2 from the custody of the police without any injury caused and without showing any weapons to the police officials. Thereby, the petitioners deter the public servants from doing their official work. That part, A4 in this case are already enlarged on bail before the trial Court on 07-09-2022 and the petitioner herein is arrayed as A6/co-accused. Hence,

the petitioner/A6 has made out a prima-facie case for grant of anticipatory bail on the ground of parity.

10. Further, it is noteworthy that relief U/s. 438 Cr.P.C. is only in the form of interim relief to remain in force for a limited period so as to provide breathing time to the offender to surrender before the jurisdictional police and to appear before the jurisdictional Court.
11. Without expressing any opinion on merits of the case and without prejudice to the foregoing paragraphs, this Court is of the opinion that there would be no impediment whatsoever, if the petitioner/A6 is enlarged on bail upon imposing strict conditions.
12. Moreover, none of the above alleged offence are either punishable with death or imprisonment for life. However, the case is a non-bailable one.
13. The petitioner/A6 is shown to be permanent resident of VTC Gopinatham Beat & post, Hanuru Taluk, at the address mentioned in the cause title and he have also submitted that he is ready and willing to furnish surety for his appearance before the Court. He has undertaken that he will not tamper or hamper with the prosecution witnesses and evidence. There is no possibility of the petitioner/A6 to flee from justice.

Accordingly, above point No.1 is answered in the affirmative.

14. **Point No.2:** For the above said discussion, I proceed to pass the following:

ORDER

The Crl. Misc. Petition filed by the petitioner/A6 U/s. 438 Cr.P.C is allowed.

The respondent police are directed to release the petitioner/A6 on bail in the event of his arrest, in connection with the crime No. 37/2022 filed by the respondent police subject to the following conditions:

1. *The petitioner/A6 shall appear before the Investigating Officer within 25 days from the date of this order and in that event, the Investigating Officer shall release him on bail by obtaining a personal bond for a sum of Rs. 50,000/- with one local surety for the like sum.*
2. *The petitioner shall co-operate with the Investigating Officer during investigation.*
3. *The petitioner shall not directly or indirectly make any inducement, threat, promise or influence the witnesses or any person acquainted with the facts of the instant case so as to dissuade him from disclosing such facts either to the Court or to the Investigating Officer and shall not tamper the evidence.*

4. *The petitioner shall produce an authenticated proof of his residential address mentioned in the cause title of this petition before the I.O. while executing the bond.*

[Dictated to the Stenographer, computerized by her, revised and corrected and then pronounced by me in the open Court on this the 15th day of October, 2022].

[Lokappa. N.R.]

Addl. District & Sessions Judge,
Chamarajanagara, [Sitting at Kollegala].

