

**IN THE COURT OF THE II ADDL.DISTRICT AND
SESSIONS JUDGE AT CHIKMAGALUR**

**Present: Sri. Manjunath Sangreshi, B.A.LL.B.[HONS]
II Addl. District & Sessions Judge,
Chikkamagaluru.**

Dated this the 14th day of January 2019

S.C. No.02/2019

Complainant : State by Kadur Police,
Chikkamagaluru.
(Represented by Public
Prosecutor, Chikmagalur)

-V/s-

Accused: 1. Manjunath T.V,
Late Venkatesh,
Aged about 20 years,
Driver, R/o.Sokkethimmapura,
Ajjampura Taluk,
Chikkamagaluru District.

(Represented by Sri. K.H.Mallikarjun,
Advocate)

ORDER ON BAIL PETITION U/S 439 OF Cr.P.C.

This is the petition under section 439 of Cr.P.C. filed by the petitioner seeking the benefit of bail in connection with Crime No.170/2018 of Kadur Police, Chikkamagaluru registered against him for the offences punishable under section 399 of IPC.

2. The brief facts of the case are that on 28-8-2018 at about 11-00 p.m P.S.I. of Kadur Police Station along with his staff was on patrolling duty. On 29-8-2018 in the night at about 12-00 a.m when he was at Check Post, he received credible information that on NH-206 road, near Kuppalu Morargi School, some persons have parked a goods vehicle and they are armed with deadly weapons and made preparation to commit dacoity. Immediately, the Sub-Inspector of police along with his staff, came to APMC market, called two panch witnesses by name Prakash and Pradeep Kumar, informed them regarding the information received by him and along with panch witnesses and his staff, went to said place, parked the departmental jeep at a distance of 100 mtrs and on watching, they found six persons standing on the side of the road by holding deadly weapons with one goods vehicle. After seeing them, they started to run away. The police officials chased them and caught hold of four persons, two persons have escaped from the spot. On enquiry, the said four persons told their names as Manjunatha @ Manja, Rajappa @ Raja, Vinoda @ Vinu and Shivakumar @ Shiva and

they have also disclosed that Gopi and Kumar have escaped from the said spot. On enquiry, it is noticed by them that the said persons have made preparation to commit dacoity. On the basis of said report, the respondent police have registered the case against this accused and others in their Crime No.170/2018 for the offence punishable under section 399 of IPC and submitted FIR to concerned magistrate Court. This accused has been arrested and produced before the concerned Magistrate. Since, from the date of arrest, he is in judicial custody. Subsequently, this accused has filed bail petition under section 439 in CrI. Misc.No811/2018. The Hon'ble PrI.District and Sessions Court, Chikkamagalur. The same was allowed with a condition to furnish two solvent sureties. As the accused and his family members are doing coolie work, they could not arrange two solvent sureties and were not able to furnish the same before the trial court. Hence, this accused did not release from the Judicial custody. As the matter has been committed to this court, the accused has come up with this petition praying to enlarge him on bail. Hence, this petition.

3. The counsel for the accused contended that the petitioner has not committed the alleged offence. He is innocent and law abiding citizen. He has been falsely implicated in this case. The alleged offence is not punishable with death or imprisonment for life. There is no sufficient material prima-facie to show that accused has involved in the above said crime. This court has already granted bail to the co-accused in Crl. Mis No.658/2018 and Crl. Misc. No.659/2018. Hence, the present accused is also entitled for bail on parity ground. Infact, this accused has also been granted bail in Crl. Misc.No.811/2018 by the Hon'ble Prl.District and Sessions Court, Chikkamagalur. But, due to non furnishing two solvent sureties the accused could not released. The petitioner is permanent resident of Sokke Thimmapura Village, Chikkamagaluru District. He is having movable and immovable properties and deep rooted in the society. He is ready to furnish surety and abide by any conditions to be imposed by this court. Hence, it is prayed to allow the petition and grant the bail.

4. The learned public prosecutor has filed his objection contending that the charge sheet materials prima-facie show that the accused was involved in the above said crime. The said crime is heinous in nature. The investigation is completed. The investigating officer has filed charge sheet. If bail is granted, there is possibility of tampering the prosecution witnesses and cause hurdle for trial and there is also possibility of accused absconding from the jurisdiction of the court. Since no sufficient reasons are assigned for granting bail, therefore he has sought for rejection of the bail.

5. Heard the arguments on both sides.

6. The following points arise for my considerations;

1. Whether the petitioner is entitled for regular bail under section 439 of Cr.P.C.?

2. What order?

7. My findings on the above points are as follows;

Point No.1: In the Affirmative.

Point No.2: As per the final order

for the following;

REASONS

8. **Point No.1:-** I have perused the complaint, FIR, entire Charge sheet materials and also took note of the grounds urged in the bail petition.

9. It is pertinent to note that earlier this accused had been granted bail by the Hon'ble Prl. District and Sessions court vide order dated 24.11.2018 in Crl. Misc. No.811/2018 subject to the condition to furnish two solvent sureties. Since this accused has not furnished two solvent sureties, therefore he could not released from judicial custody. Hence, this accused has filed this petition. As already this accused once has been granted bail, there is no impediment to release the accused on bail at this stage. Further, on perusal of records, it is evident that this court had granted bail to some of the co-accused. Hence, this accused is also entitled for bail on parity ground.

10. Moreover, the alleged offence under section 399 of IPC is not punishable either with death or life imprisonment. The material objects have been already seized. The accused has submitted that he is permanent resident of Sokke Thimmapura

Village, Ajjampura Taluk, Chikkamagaluru District. Under such circumstances, the question of accused absconding does not arise and presence of the accused can be easily secured. Taking into consideration of nature of the offence and having regard to the facts and circumstances of the case, the accused is entitled for regular bail. The apprehension of the prosecution may be met with by imposing certain conditions. Accordingly, I answered the point No.1 in the Affirmative.

11. **Point No.2:** In the light of the above discussion, I proceed to pass the following order;

ORDER

The petition filed by accused/petitioner under section 439 of Cr.P.C. is allowed.

The accused/petitioner is enlarged on bail in connection with Crime No.170/2018 [S.C.2/2019] for the offences punishable under section 399 of IPC., on execution of personal bond for Rs.1,00,000/- with one surety for the like sum subject to the following conditions.

1. The petitioners shall appear before the court on all dates of hearing.
2. The petitioners shall not tamper with the

prosecution evidence and shall not prevail over the
prosecution witnesses.

[Dictated to the Stenographer, on computer, typed by him, corrected by me
and then pronounced in the open court on this the 14th day of January
2019].

(Manjunath Sangreshi),
II Addl. District & Sessions Judge,
Chikkamagaluru.

*YM/-