

KACM010004992014



**IN THE COURT OF II ADDITIONAL DISTRICT AND  
SESSIONS JUDGE AT CHIKKAMAGALURU**

**Dated this the 16<sup>th</sup> day of April, 2024**

**:PRESENT:**

**Smt. Bhanumathi B.C., B.A.L., LL.B.,**  
II Addl. District and Sessions Judge  
Chikkamagaluru

**S.C No.25/2014**

Complainant : State by Birur Police  
(Represented by Public  
Prosecutor)

-VS-

Accused : 1. Krishnamurthy,  
S/o. Kariyappa,  
Aged about 45 years,  
Lecturer in Government  
Junior College,  
R/at Lingadahalli village,  
Tarikere Taluk.

(Represented by Sri P.E.S.,  
Advocate)

**ORDER**

The accused No.1 has filed this application under section 439 of Cr.PC for enlarging him on

bail in the above case registered against him and others for the offences punishable under sections 302 and 201 of IPC.

2. It is contended by the accused No.1 that he is innocent and he has not committed any of the offences alleged against him. The accused has got two children, his daughter completed computer science engineering at BMS college, Bengaluru and his son is studying 8<sup>th</sup> semester engineering at BMS college, Bengaluru. The wife of accused is also lecturer at Government PU college, Vijayapura and he is working in the same college. He could not appear before the court as he has been deputed for paper valuation. If he is continued in judicial custody there is every chance of he losing his job and the future of the children gets suffered. The accused No.1 undertakes to abide by the terms and conditions that may be imposed by the court for granting bail to him. Inter-alia on these grounds, the accused sought for allowing the petition.

3. The learned Public Prosecutor has resisted the above application by filing statement of objections. By reproducing the allegations made in the charge sheet, it is contended by the prosecution that the materials placed on record prima-facie discloses the involvement of this accused in the crime in question. The matter is pending consideration at the stage of arguments of defence counsel, but the accused remained absent without any sufficient

reason and thereby he contributed for the delay in disposal of the case. Hence, if at this stage, if the accused released on bail, he may further flee from justice and thereby the disposal of the case would get protracted. Inter-alia on these grounds, the Public Prosecutor sought for rejecting the application.

4. Heard arguments and perused the record.

5. The points that arise for the consideration of this court are:-

### **POINTS**

1. Whether the accused No.1 has made out any ground to enlarge him on bail in the above case?

2. What order?

6. My findings on the above points are as follows:

**Point No.1 : In affirmative,**  
**Point No.2 : As per the final order**  
**for the following:-**

### **REASONS**

(Note:- It is made clear that the observations made by this court in the course of this order is only in respect of considering the bail application and the same has no bearing on the merits of the case.)

7. **Point No.1** : I have carefully perused entire materials placed on record. This court is conscious of the fact that the court cannot and is not supposed to sift the evidence made available by the prosecution at the time of deciding the bail application and moreover, this accused was already enlarged on bail on merits. Hence, only for the purpose of deciding whether the accused is entitled for bail or not, I proceed to discuss the facts alleged by the prosecution and whatever I say while disposing this bail application cannot be construed as an expression of opinion on the merits of the main case.

8. It is seen from the record that on 15.10.2013, the complainant police registered case in Crime No.132/2013 against unknown for the offence punishable under section 302 of IPC on the basis of complaint lodged by CW.1. After completing investigation, the investigating officer submitted charge sheet against this accused and others for the offences punishable under sections 302 and 201 of IPC.

9. It is seen from the record that during investigation, this accused was arrested and produced before the court on 29.10.2013 and later he was released on bail on 24.03.2014. Hence, there is no need to go in detail with regard to facts of this case as accused was already released on bail in connection with the crime in question on merits. As this accused subsequently remained absent

before the court, this court issued NBW to secure his presence. In pursuance of the same, the complainant police apprehended and produced him before this court on 03.04.2024, on which he has been remanded to judicial custody.

10. While addressing arguments, the learned counsel for accused submitted that the accused was regularly attending the court personally and on some occasions, his presence was exempted pursuant to the application filed under section 317 of Cr.PC by his counsel. The accused was unable to keep himself present on 23.02.2024 as he was deputed to evaluation and he could not inform the same to his counsel and as such NBW was issued against him. By executing said warrant, the complainant police apprehended accused No.1 and produced him before the court on 03.04.2024, on which he was taken to custody.

11. It is also submitted that the absence of accused No.1 on that day was not intentional and earlier this accused was regular to the court and now he has learnt a lesson and understood what would be the consequences if he absents himself before the court and as to what consequences he has to face if he violates the bail conditions. It is also submitted that the accused would mend his conduct in future and he would attend the court regularly in order to assist the court for disposal of the case at the earliest.

12. In the case on hand, since the accused No.1 violated the terms and conditions imposed on him by the court while admitting him on bail, he was again apprehended and taken to judicial custody and he has been in judicial custody since 03.04.2024. In the given set of facts and circumstances, this court is of the humble opinion that one more opportunity should be given to the accused to mend his conduct and to assist the court for disposal of the case on merits.

13. The Hon'ble Apex court in the case of **Sanjay Chandra -VS- CBI reported in 2012(1)SCC 49**, has categorically held that bail is not to be withheld as a punishment otherwise also normal rule is of bail and not jail and the court is required to keep in mind the nature of accusations, nature of evidence in support thereof, severity of the punishment which the conviction will entail, character of accused and the circumstances which are peculiar to the accused involved in that crime.

14. In view of these aspects, this court is of the opinion that at this stage, the prosecution has not made out any compelling grounds to detain the accused further in judicial custody as a punishment. Further, the accused No.1 is ready to furnish surety to the satisfaction of the court and to abide by any conditions that may be imposed by this court. Hence, it appears that there is no impediment in securing the presence of the accused No.1 before the court for the remaining

trial. The apprehension and interest of the prosecution that if the accused is enlarged on bail he may further flee from justice can be safeguarded and taken care of by imposing suitable conditions and thus it serves the dual purpose in the interest of justice.

15. Thus, by taking into consideration the facts and circumstances of the case and material available on record, without expressing anything on merits or demerits of the case, this court is of the opinion that this is a fit case to exercise discretion to enlarge the accused No.1 on bail and accordingly, I answer point No.1 in **affirmative**.

16. **Point No.2:** In view of the above findings on point No.1, I pass the following:

### **ORDER**

The application filed under section 439 of Cr.PC by the accused No.1 is hereby allowed and the accused No.1 is ordered to be enlarged on bail in the above case on the following conditions.

- 1) The accused No.1 shall execute bond for a sum of Rs.2,00,000/-(Rupees two lakhs only) with two sureties for the like sum.
- 2) He shall attend the court regularly on all the dates of hearing.

- 3) He shall not involve himself in any criminal activity.
- 4) In case of violation of any of the conditions imposed above, the bail granted in favour of the accused shall stands canceled.

(Dictated to Stenographer Grade-I directly on computer, script corrected and then signed by me on this the 16<sup>th</sup> day of April, 2024)

Sd/-

(BHANUMATHI.B.C)  
II Addl. District & Sessions Judge  
Chikkamagaluru