

**IN THE COURT OF PRL. DISTRICT AND SESSIONS
JUDGE AT CHIKKAMAGALURU**

*Present: Smt. Shubha Gowdar, B.A.,LL.B
Prl. Dist. & Sessions Judge, Chikkamagaluru.*

Dated this the 25th day of June 2021

SESSIONS CASE No: 96/2019

<u>Accused</u>		A1. Venkatesh S/o. Annamalai, aged 36 years, Near Educate School, Bovi Colony, Shivamogga.
		(Rep. by Sri: B M Laxmana Gowda.)
	-Vs-	
<u>Complainant</u>		State R.F.O, Tarikere
		(Represented by Public Prosecutor, Chikkamagaluru)

ORDERS ON BAIL APPLICATION OF A1

This application under Sec. 439 of Cr.P.C has been filed by accused no.1 seeking regular bail for the offences punishable under Secs. 33, 50, 62, 84, 86 and 87 of K.F. Act and rules 144 and 165 of K.R. Rules, on the following grounds:

2. Accused no.1 is innocent. He has not committed any offences. He is permanent resident of Bhovi Colony, Shivammogga and has got movable and immovable properties. There is no chance of absconding. He is in J.C. from the date of his arrest. He is having family. Earlier he was on bail. He was absent for hearing, NBW was ordered to be issued, he was arrested and produced before the court. Since then he is in J.C. He is ready to offer surety and will abide by the conditions that may be imposed by the court. Hence this application.

3. The learned P.P has filed objections through e-mail by contending that he is not entitled for bail, the trial has already commenced. At this stage, he remained absent. Prima facie appears against him. If he again absconds it would paralyze the trial. Hence, seeks for rejection of the application.

4. *Heard both sides through e-mail. Perused. Posted for orders.*

5. *The points that arise for my determination are :*

(1) Whether accused no.1 has made out grounds for grant of regular bail under Sec.439 of Cr.P.C. ?

(2) What order?

6. *My findings on the above points are :*

Point No.1 : In the affirmative

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

REASONS

7. **Point No.1** : *Accused no.1 seeks for regular bail in the present case for the aforesaid offences.*

8. *It is the case of the prosecution that on 12.5.2019 at 1.00 p.m, when the forest officials were taking rounds nearby Biddalakkallappa Temple in Sy. No.142 Forest land within the jurisdiction of Mundre Village, Tarikere Taluk, they found movement of some persons. They chased them and they were able to apprehend two persons who are accused no.1 and*

2 and one person escaped from the spot. Thereafter they took them to the place where they have cut the sandal trees. After the case was registered against accused no.1 to 4, accused no.2 was enlarged on bail. Since he remained absent, NBW was issued. He was produced before the court by executing NBW on 17.2.2021 and he has been remanded to J.C. Since then he is in J.C. Hence the present application came to be filed seeking for anticipatory bail.

9. *The learned counsel for accused no.1 has argued that he was regular in the present case, because of Covid-19 there was no entry for litigants /accused, after the trial is fixed, he remained absent on one hearing date. Since the date was fixed for trial, NBW was issued. Accused no.1 was arrested and remanded to J.C. It is further argued by him that he will be regular hereafterwards and also will co-operate for trial.*

He has also got family to look after them. Any conditions may be imposed.

10. The learned P.P submitted that because of absence of accused no.1, witnesses appeared before the court were sent back un-examined. Hence if he is let on bail, there is chance of absconding again, it would hamper the trial. The trial has already commenced. Prays for rejection of bail.

11. As already noted above, accused no.1 was enlarged on bail. Since he remained absent on the date fixed for trial, NBW was issued. The trial was fixed by 6.1.2021 and 11.1.2021. On 6.1.2021 witnesses were absent, accused no.1 also was absent. The learned counsel for accused no.1 filed exemption application. That was allowed. On the next hearing date i.e. on 11.1.2021 which was already fixed for evidence of other witnesses, accused no.1 again did not appear before the court. On that day CW1, 6 to 8 were present. The learned

counsel for accused no.1 submitted that he has no instructions from the accused. Hence the witnesses were discharged on that day and they were sent back. Due to absence of accused no.1 the witnesses were not examined and sent back. CW1, 5, 7 and 8 are official witnesses and CW6 is an independent witness. They have to come from Mundre Village, Amruthapura Hobli, Tarikere Taluk. The NBW was issued . He was arrested and produced on 17.2.2021. As per the submission made by learned counsel for the accused, he will be regular hereafterwards and he will co-operate for trial.

12. On looking to the order sheet, before fixing the trial, because of Covid-19, there was no entry for public or litigants. But after it was lifted, the trial commenced by fixing the date for evidence of the witnesses, accused no.1 remained absent. There are four accused involved in the present incident. Case against accused no. 3 and 4 was already split

up and registered in C.C. No: 545/2019 . Now the trial has commenced against accused no.1 and 2. only. He remained absent on one day. Keeping in view this aspect and other aspects noted above, regular bail may be granted to accused no.1 . The apprehension of the prosecution can be met by imposing stringent conditions. Hence, I hold Point No.1 in the affirmative.

13. **Point No.2** : *For the aforesaid reasons, I proceed to pass the following order:*

ORDER

The application under Sec. 439 of Cr.P.C, filed by accused no.1 is hereby allowed.

Accused no. 1- Venkatesh is enlarged on regular bail on execution of personal bond for Rs.1,00,000=00 with one surety for like sum, to the satisfaction of this Court, on the following conditions:

(1) He shall not tamper prosecution witnesses and evidence.

(2) He shall not involve in any offences including the offences alleged in the present complaint.

(3) He shall attend the court on all the dates of hearing.

[Dictated to Judgment Writer , after transcription, print out corrected and then pronounced by me in open court on this the 25th day of June 2021].

Sd/-

*(Smt. Shubha Gowdar)
Prl. District & Sessions Judge,
Chikkamagaluru.*

Rag/-