

KACM010026502016



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

Dated this the 17<sup>th</sup> day of October, 2025

:PRESENT:

**SRI. PRAKASH.V., B.A(L), LL.B.**  
I/c II Addl., District and Sessions Judge,  
**Chikkamagaluru.**

**S.C.No.118/2016**

**COMPLAINANT** : State by N.R.Pura Police,  
N.R.Pura Taluk,  
Chikkamagaluru District.

(Rep. by Public Prosecutor)

-V/s-

**ACCUSED NO.4:** Benakesha,  
S/o Veerappa,  
Aged about 28 years,  
Agriculturist,  
R/o. Benakanahali village,  
Honnali Taluk,  
Davanagere District.

(Rep. by H.A.T., Advocate)

**ORDER**

The Accused No.4 has filed this application under  
section 439 of Cr.P.C., for enlarging him on bail in the

above case registered against him and others for the offences punishable under sections 395, 109, 397 of IPC.

2. In the application accused No.4 has stated that, he is innocent and he has not committed any offences as alleged, but a false case has been registered against him. There are no reasonable grounds to believe that the accused No.4 has committed the offences alleged against him. The accused is the only bread earner of his family. The investigation is already over and the accused No.4 is not required for further investigation. He further undertakes to abide by the terms and conditions that may be imposed by the court for granting bail to him. Hence, sought for bail.
3. The learned Public Prosecutor has filed detailed objection by reiterating the contents of the complaint and contended that after completing investigation, the complainant police have submitted

charge sheet against the accused persons and the materials placed on record prima-facie discloses the involvement of the accused persons in the crime in question and if at this stage, the accused No.4 is released on bail, he may further flee from justice by remaining absent from the proceedings and hamper the trial. It is also contended that the accused No.4 may also involve himself in the commission of similar offences and he may threaten and intimidate the prosecution witnesses. Thus, sought for rejection of petition.

4. Heard the arguments and perused the records and the following points arise for my consideration;

**P O I N T S**

1. Whether the accused No.4 has made out a ground to enlarge him on bail in the above case?
  2. What Order?
5. My answers to the above points are ;

**Point No.1:** In the Negative.

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

**REASONS**

6. **POINT No.1 :** The brief facts of the prosecution case as per the complaint is that, on 28.10.2015 at 10.00 p.m, the accused Nos.1 to 5 went near the house of complainant situated at Mathimara-Bale village, N.R Pura Taluk in a Maruthi Ertiga car bearing registration No.KA-17/B-6860 and when the complainant opened the door, the accused Nos.4 and 5 enquired about the price of rubber saplings and asked water and when the complainant went inside to bring water, accused Nos.2 to 5 entered into his house, demanded money, accused No.3 assaulted him with long on his forehead and left forearm, caused bleeding injury and accused No.1 took away a TV, accused No.2 took computer, accused No.3 took charger light, accused No.4 took carbon company mobile and CPU of computer and accused No.5 took two current induction stoves and

accused No.6 gave the aforesaid vehicle to accused Nos.1 to 5 to commit the offence. Accordingly, case has been registered against accused persons.

7. After investigation, charge sheet has been submitted against the accused Nos.1 to 6 for the offences punishable under sections 395, 109, 397 of IPC. The learned JMFC after taking cognizance registered the case in C.C No.304/2016. During investigation, this accused No.4 obtained bail in CrI.Misc.906/2015 from this court dated 22.12.2015, appeared before the committal court and enlarged on bail as per order sheet dated 29.12.2015.
8. After committal this accused appeared before the court and enlarged on bail on 07.12.2016. During trial this accused remained absent continuously before this court and hence this court on several occasions issued N.B.W. against accused No.4. On 12.06.2023, this accused No.4 produced before this court under NBW, remanded to judicial custody.

Thereafter, filed bail application under section 439 of Cr.P.C., before this court and it was dismissed on 26.06.2023. This accused approached the Hon'ble High Court of Karnataka and obtained bail in Crl.P.No.6941/2023 and appeared before this court and after obtaining surety, accused No.4 was released on bail on 12.10.2023. Again, as the accused No.4 remained absent continuously and issued NBW against this accused and notice was also issued to his surety. On 11.07.2025, accused No.4 was produced before this court and remanded to judicial custody and since then he is in judicial custody.

9. The learned Public Prosecutor has argued that this accused has jumped the conditions of bail on two occasions and the trial is stalled due to the continuous absence of this accused. If the accused is released, he may abscond again and prayed for rejection of the bail application.

10. Per contra, the Counsel for accused No.4 would submit that the accused is ready to abide by any of the terms and conditions to be imposed by this Court and requested to allow the bail application.
  
11. With the above contentions, it is just and necessary to go through the materials available on record. Before going into the discussion on the other aspect of the matter, it is just and proper to go through the principles to be borne in mind while considering the petition for bail. It is well settled that matters to be considered in an petition for bail are;

- “(i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the charge;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;

- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being tampered with; and,
- (viii) Danger, of course, of justice being thwarted by grant of bail.

12. By keeping in mind the above principles, the instant petition filed by the petitioner is to be considered. I have carefully gone through the materials available on record, wherein it is disclosed that during the trial of this case, this accused remained absent before this court and hence this court had issued N.B.W. on several occasions. On 12.06.2023, this accused No.4 produced before this court on execution of warrant and he was remanded to judicial custody. Thereafter, filed bail application under section 439 of Cr.P.C., before this court and it was dismissed on 26.06.2023. This accused approached the Hon'ble High Court of Karnataka and obtained bail in CrI.P.No.6941/2023 and appeared before this court and after furnishing surety, accused No.4 was

released on bail on 12.10.2023. Again, this accused remained absent continuously and NBW was issued against him including notice to his surety.

13. The above referred instances clearly goes to show that the accused is in the habit of jumping the conditions of bail bond often. The materials available on record clearly goes to show that the instant case is of the year 2016 and falls under the category of 7 year old cases and the trial was delayed only due to the absence of this accused before the Court. The case is reached the fag end of the trial and evidence of Investigating Officer i.e., C.W.30 is stalled due to the absence of this accused. Under these circumstances, looking into the gravity of the offence, at this stage it may not be appropriate to release him on bail. If the accused No.4 is released, his presence cannot be secured for the trial as he may abscond again. The apprehension of prosecution are well founded. Hence, I have no hurdles to hold that no exceptional grounds are

made out for grant of bail. Accordingly, I answered the Point No.1 is in 'Negative'.

14. **Point No.2**:- In view of my findings on Point No.1, I proceed to pass the following;

**ORDER**

The application filed by the accused No.4 under Section 439 of Cr.P.C., is hereby dismissed.

(Typed my dictation directly on computer by the Stenographer Grade-III, corrected, signed and then pronounced in open court on this the 17<sup>th</sup> day of October, 2025).

**Sd/-**

**(PRAKASH.V)**

I/c II Addl., District and Sessions  
Judge, Chikkamagaluru.