

ORDERS ON BAIL APPLICATION

Accused No.2 is in JC and the present application is filed under Section 437 of Cr.P.C., seeking to release the accused No.2 on bail in the above case for the alleged offence p/u/s 454 and 380 of IPC.

2. The accused No.2 has contended that, he is the innocent of alleged offences and he will not temper with the prosecution witnesses. The accused No.2 further submitted that he is sole bread earner of the family and accordingly sought for his release on bail.

3. Learned APP has filed her statement of objections to the present application submitting that, the accused was earlier enlarged on bail and since he has jumped the bail, if the present application is allowed, the accused will again abscond and thereby delay the proceedings. The accused has jumped bail and he may repeat the same. On these grounds, the learned APP has sought for rejection of the application

4. Heard the learned Counsel for accused as well as learned APP and also perused the entire materials available on record.

5. In view of the above contentions, the following points do arise for consideration of the above application:

- 1. Whether the accused No.2 has made out sufficient grounds for his release on bail?**
- 2. What order?**

6. The answer of this Court for the above points for consideration is as follows:

Point No.1 : In Affirmative.

Point No2 : As per final order for the following:

REASONS

7. Point No.1: On perusal of the order sheet, it could be seen that the complainant police have filed charge sheet against the accused persons for the offences punishable under section 454 and 380 of IPC. The accused No.2 was already on bail but since he had remained absent, NBW was issued against him.

8. The accused No.2 is arrested on execution of NBW. Thus the earlier bail gets canceled and bail bond stands forfeited. Therefore the bond amount is to be recovered from the accused in the event if once again granting bail to the accused. Accused No.2 has earlier executed bail bond of Rs.50,000/-. Since the accused No.2 has violated the earlier bail terms, the said bail bond stands forfeited to state.

9. As could be seen from the record, the offence alleged against accused is p/u/s 454 and 380 of IPC. The said offence are non-bailable in nature

and triable by this Court. It is no doubt the settled principal of law is that bail is rule and jail is an exception. The accused though not appeared in the present case is secured and sent to judicial custody and now he is seeking bail by way of the present application. Keeping in view, the settled position of law, this court considers that keeping the accused in judicial custody is of no use and stringent conditions has to be imposed on accused in addition to recovering penalty for jumping the bail. Hence, the Point No.1 is answered in '**Affirmative**'.

10. Point No.2: In view of the reasons recorded by this Court on the above Point No.1, this court deems it fit to release the accused No.2 on bail subject to conditions. Hence, this Court proceeds to pass the following:

ORDER

The bail application filed by the accused No.2 under section 437 of Cr.P.C is hereby allowed subject to payment of Rs.3000,- as penalty for violating previous bail and on executing personal bond for a sum of Rs.1,00,000/- with one surety for like sum.

Accused No.2 shall appear before this Court on all date of hearing without fail and not to influence or threaten the prosecution witness and

he shall not tamper the persecution materials.

For furnishing surety by:

Sd/-

(Vishwanath.A)

Prl. Civil Judge & JMFC
Mudigere.