

**ORDER ON BAIL APPLICATION FILED BY THE ACCUSED No.2
U/S.437 OF Cr.P.C.**

The accused no.2 has filed this bail application praying to enlarge them on bail as per the grounds urged in their application.

2) The learned APP has filed objection for the application filed by accused no.2.

3) Heard the arguments of learned counsel for the accused no.2 and the learned APP.

4) The points that would arise for the consideration of this

Court are:–

POINTS

2) Whether the accused no.2 has made out grounds to allow the bail application and enlarge him on bail?

2) What order?

5) My answers to the above points are:-

Point No.1 : Negative.

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

REASONS

6) As per the charge sheet, that on 03.01.2024 at about 2.00 pm when CW1 and her mother going Siddraihanakatte on the channel road on the accused no.2 have committed the robbery, to be specific the accused no.2 has restrained CW1 and has held her neck, the accused no.1 has pulled the hair of CW1 and has shown knife and put CW1 in fear of death or greivous injury and the accused nos.1 and 2 have forcefully taken the golden chain (ಕರಿಮಣಿ ಮಾಂಗಲ್ಯ) worth Rs.1,00,000/- now this accused no.2 has come up with bail application stating that he is innocent and law abiding citizen and he undertakes to before this Court on all the hearing dates and further undertakes to abide by the any of the conditions imposed by this Court.

The charge sheet has been filed against both the accused for the offence P/U/Sec.392 of IPC, the facts mentioned in the charge sheet also attracted the O/P/U/Sec.394 of IPC. As such the cognizance was taken for the O/P/U/Sec.394 of IPC also.

The Id. APP in her objections has contended that 4 similar cases have been registered against these accused persons in the year 2024 itself. They are C.C No.382/2024, 365/2024 pertaining to Santhemarahalli Police Station, C.C No.363/2024 and 364/2024 pertaining to KPS. The accused no.2 is an habitual offender, if the accused no.2 release on the bail he may abscond, threaten the prosecution witnesses and also may repeat the similar offences.

No doubt none of these alleged offences are punishable with death or life imprisonment and also very much triable by the Court of Magistrate itself. Just because the alleged offences

are neither punishable with death nor imprisonment, the bail cannot be granted in a routine manner.

At the time of deciding the bail application, the Court shall exercise judicious discretion. In the judgment of **The Hon'ble Apex Court in Criminal Appeal Nos.2079–2080 of 2023 (arising out of SLP (CRL) Nos.3445–3446 of 2023)**, it was held that **“the primary considerations which must be placed at balance while deciding the grant of bail are:–(i) The seriousness of the offence, (ii) the likelihood of the accused fleeing from justice, (iii) the impact of release of the accused on the prosecution witnesses, (iv) likelihood of the accused tampering with evidence.”** It is pertinent to note that, The Hon'ble Apex Court has held that this list is not exhaustive, the Courts can consider other factors also but the decision has to be based upon the judicious exercise of the discretion.

9) In the case on hand, already series of cases have been booked against this accused no.2, certainly this accused no.2 is a threat to society. There will be certainly a negative impact of releasing accused no.2 on bail on the prosecution witnesses. Since the accused appears to be an habitual offender, the chances of repeating the similar offences can never ever be ruled out. Even otherwise the alleged offence is very much serious in nature and can never ever be taken lightly, the accused no.2 is certainly a threat to society. Therefore by looking into any angle this is not a fit case to exercise the judicial discretion of granting bail in the non bailable offence. As a result I answer **Point No.1 in the Negative.**

10) **Point No.2:-** For the reasons discussed in Point No.1, I proceed to pass the following;

ORDER

The bail application filed by the accused no.2 U/s.437 of Cr.P.C is hereby dismissed.

Reissue NBW against A1 r/by 14.11..2024.

12.09.2024.

The Civil Judge and JMFC., Yelandur.