

KADG010022772022



**IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS
JUDGE, DAVANAGERE.**

-:PRESENT:-

Smt. Rajeshwari N.Hegde, B.com, LL.M.,
Principal District & Sessions Judge,
Davanagere.

Dated this the 25th day of January, 2023.

SESSIONS CASE NO. 99/2022

Complainant:-

State of Karnataka represented through
Police Inspector, Women Police Station,
Davanagere.

(By learned Public Prosecutor)

-VERSUS-

Accused:-

Mani @ Veeramani, S/o.
Subramanya, aged about 31
years, R/o. 4th cross,
Siddarameshwara Badavane,
Davanagere.

(By Sri E.S.I., Advocate for Accused)

=====

O R D E R

1. Accused has filed this bail petition U/S. 439 Cr.P.C.,
praying to enlarge him on bail for the offence punishable
U/Sec.366 of the Indian Penal Code.

2. It is stated in the bail petition that the accused was filed CrI.Misc.No.885/2016 before the 1st Addl. District and Sessions Judge, Davanagere U/Sec.439 of Cr.P.C.; that bail application came to be allowed on 09/12/2016. It is further stated that there is no reasonable and valid grounds on record to hold that the accused is guilty of offences punishable with death or imprisonment for life; the accused is innocent; he is residing at Bengaluru along with his wife and children and the accused having his family and the said family members are depending on the income of the accused for their livelihood and he is only sole bread earner of his family; if the bail is not granted, the family members of the accused would be put to great hardship and mental agony; the offence alleged against him is not punishable with death sentence or imprisonment for life, he is ready to offer surety for his due presence before the Court; he will not abscond from the proceedings and will not tamper with prosecution witnesses, if he is released on bail, he is ready and willing to abide by the conditions that may be imposed by the Court. Hence, prayed for allowing the bail application.

3. Learned Public Prosecutor has filed objections to bail application filed on behalf of accused, wherein he denied the averments made in the bail petition. He has further stated that there is a prima-facie case against the accused; the accused is a habitual offender; the offence alleged against the accused is heinous in nature, punishable with imprisonment for life; he is absconding;

hence split up charge sheet was filed; if the accused is enlarged on bail, there is every chance of his further abscondance; no valid grounds are mentioned and the grounds mentioned in the bail petition are only created for the purpose of filing the bail petition, if the accused is released on bail, there are every chances of threatening the prosecution witnesses and indulging similar type of offence. Hence, prayed for rejection of bail application.

4. Heard arguments of both sides and perused the records.

5. Following point do arise for my consideration:

“Whether the accused is entitled for regular bail?

6. My findings on the above point is in the **affirmative**, for the following:-

REASONS

7. Present case is registered against the accused No.1 to accused No.3 based on the complaint lodged by the complainant in Crime No.96/2016 and after investigation, charge sheet was filed before learned JMFC. Afterwards, the case is committed to Sessions Court and it is numbered S.C.No.29/2018; as this accused not appeared before the Court, the case against the present accused ordered to be split up and accordingly, split up charge sheet was filed and the case was registered in S.C.No.99/2022.

8. Learned counsel for the accused during the course of his arguments has submitted that the only objection raised by the prosecution is that the present accused has remained absconding and hence, if granted with bail, he may again abscond and put hurdles in the progress of the case. It is submitted that the present accused never absconded. He is the permanent resident of Bengaluru. He was very much available and it is falsely alleged that he was not available to the police. He has also submitted the accused is ready to abide by any conditions to be imposed by the Court. Hence, he may be granted with bail.

9. As against this, learned Public Prosecutor during the course of his arguments has submitted that the incident is of the year 2016; accused has absconded and he was not available to the Investigating Officer for conducting investigation; investigating Officer filed the charge sheet against accused Nos.1 and 2 and split up charge sheet was filed against the present accused; if released on bail, accused will again abscond and put hurdles in the further progress of the case.

10. I have perused the averments made in the bail petition and other materials on record, so also, the order of the 1st Addl. District and Sessions Court, Davanagere on the bail application of the accused in Crl.Misc.No.885/2016.

11. It is pertinent to note here that the accused had obtained regular bail from 1st Addl. District and Sessions Court, Davanagere in Crl.Misc.No.885/2016 with some

conditions. Thereafter, the accused did not attend the Court in original S.C.No.29/2018 and the said case against him came to be split up. Thereafter, the split up charge sheet was registered against the accused in S.C.No.99/2022. The accused did not appear in the said case in spite of issuance of NBW and proclamation warrant; the police secured the accused on 07/01/2023 and since then, he is in judicial custody.

12. The incident is of the year 2016 and we are in 2023. The accused was absconding since nearly six to seven years and he did not appear before the Court. The conduct of the accused that he is not having any respect to the orders of the Court and he has jumped the bail. Further, having executed the bond undertaking to appear before the Court regularly, the accused was elusive from the Court proceedings for 6-7 years and thereby, hampered the trial.

13. The learned counsel for the accused submitted that now the accused understood what would be the consequence if he absents before the Court and as to what consequences he has to face if he violates the bail conditions. He 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.

14. The offence alleged against the accused is not punishable with death or imprisonment for life, one opportunity shall be given to the accused to mend his conduct and assist the Court for disposal of the case on

merits. If the accused absents himself after providing an opportunity with a deliberate intention to protract the trial, then the Court can take serious action against the accused.

15. Looking to the materials placed on record and as he was earlier on bail and the alleged offence is U/Sec.366 of IPC and it is not exclusively punishable with death or imprisonment for life, I deem it proper to provide him one more opportunity to the accused. With these observations, I am of the opinion that one more opportunity shall be given to the accused to mend his conduct by imposing penalty of ₹2,000/-, as he remained absent before the Court after obtaining regular bail and violated the earlier bail conditions, it would meet the ends of justice. Accordingly, I answer the above point in the **affirmative** and proceed to pass the following:-

ORDER

The bail petition filed on behalf of accused U/S.439 Cr.P.C., is allowed.

The accused is ordered to be released on bail subject to the following:-

CONDITION

1. The accused shall execute a personal bond for a sum of ₹1,00,000/- with two local sureties for the likesum.

2. He shall pay penalty of ₹2,000/- before this

Court.

3. He shall be regular in attending the Court till the trial is concluded.

4. He shall not tamper the prosecution evidence in any manner directly or indirectly.

5. He shall not leave the jurisdiction of this Court without prior permission.

6. He shall furnish Voter ID or Aadhaar Card etc., for his address proof before this Court.

If the accused violates the above condition, the bail granted to him automatically it stands cancelled.

(Dictated to the Judgement Writer directly on the Computer, corrected, signed and then pronounced in the open Court on this the 25th day of January, 2023.)

(Rajeshwari N.Hegde)
Prl. District & Sessions Judge,
Davanagere.
