

KADK010005122024



Presented on : 01-02-2024
Registered on : 01-02-2024
Decided on : 25-11-2025
Duration : Year Month Days
01 09 24

**In the Court of III Additional District and Sessions Judge, D.K.,
Mangaluru.**

Present:- **Smt. Sunitha S.G.**, B.Sc., LL.B.,
III Additional District and Sessions Judge,
D.K., Mangaluru.

Dated: - This the **25th day of November 2025.**

SC/5/2024

Complainant: The State,
by Mulki Police Station
represented by Public Prosecutor,
D.K. Mangaluru.

(By learned Public Prosecutor)

Versus

Accused: A-1 Raghu S @ Raghavendra,
S/o. Shivanna S.S,
Aged about 30 years,
28 Bapooji Layout (Badavane),
Honnuru, Mallashetti Halli,
Davangere.

(By Sri Kishore D' Silva, Advocate)

ORDER ON BAIL APPLICATION

This application is filed by the accused No.1 under Section 439 of the Criminal Procedure Code, seeking for bail in connection with S.C. No.5/2025 (in Crime No.84/2023 of Mulki Police Station) for the offence punishable under Section 397, 395 read with 34 of Indian Penal Code.

2. The brief facts of the prosecution case are that, on 17.09.2023, accused Nos. 1 to 5 came to Mulki in an Etios tourist Car bearing Reg.No.KA-17-D-2299 and a Honda Dream Yuga Company Motorcycle bearing Reg.No.KA-20-EE-0610 which had been stolen from Manipal, Udupi. They parked the car near Chandramouliswara Bus Stand, Mulki. Accused Nos. 1 and 2 then stole a Bajaj Discover Motorcycle bearing Reg.No.KA-19-EC-2398 and moved it near Chandramouliswara Temple. As instructed by accused No.1, accused Nos. 3 to 5, armed with a knife from the car, searched for houses with single women. Around 12:30 P.M. accused Nos. 1 to 4, with common intention, entered the courtyard of the complainant Shrinidhi's house at Door No.1-

272/A, Bellayuru Village, Kolnadu and accused nos.1 and 4 were standing in the Courtyard of the complainant, 2nd and 3rd accused were standing near the entrance door of sit-out and accused No.1 called the complainant as “Amma” and asked to give small bottle. On hearing the same, the complainant opened the door at that time the 3rd accused threatened her by showing knife aimed to the neck of the complainant. While accused No.2 snatched a black pearl necklace from her neck, causing it to break. The complainant sustained cut and bleeding injuries on her neck and left ear. The accused fled the scene on the stolen motorcycles and later regrouped near their parked Etios car. The stolen necklace, weighing about 39.670 grams and valued at ₹.1,70,000/-, was later kept for sale by accused No.6, who was aware to be stolen property. On such allegations, complaint came to be registered.

3. The police apprehended accused Nos.1 to 6 when the police were conducting vehicle checking and thereafter based on the confession statements given by the accused persons recoveries were made. They were then remanded to Judicial Custody by the Jurisdictional Court. The Investigating Officer on

completion of investigation had filed the charge-sheet against the accused persons before the Senior Civil Judge and JMFC Court, Moodabidre, Mangaluru for the aforesaid offences and thereafter committed to this Court.

Further the accused No.1 was apprehended on 23-09-2023. The Hon'ble High Court of Karnataka while dismissing the bail application of accused in CrI.Petition No.5241/2025 was pleased to direct this Court to conclude the trial within a period of six weeks from the date of receipt of certified copy of the order. The order sheet of this court dated 09-07-2025 shows that this court has received the order copy of the Hon'ble High Court of Karnataka in CrI.Petition No.5241/2025. However, despite the lapse of more than four months, the trial has not been concluded till date and the accused No.1 is still in judicial Custody.

4. The accused has now sought for bail on the ground that he is innocent of the alleged offence and he has been falsely implicated in this case. The entire case is based on suspicion and circumstantial evidence. There is no direct or cogent material to

connect the accused with the alleged offence. There is neither prima-facie case nor materials to show that he has committed any offence punishable with death and imprisonment for life. Despite the lapse of more than four months, the trial has not been concluded till date and the delay is not attributable to the accused in any manner. The non compliance with the time bound direction of the Hon'ble High Court constitutes a change in circumstances, entitling the accused to seek bail afresh. Continued incarceration of the accused, despite such delay, amounts to a violation of the fundamental right to speedy trial guaranteed under Article 21 of the Constitution of India, as recognized by the Hon'ble Supreme Court. He is having permanent resident and deep roots in the society. If the application is not allowed, the Petitioner will be put to irreparable loss and hardship. He is also ready and willing to abide by all conditions that may imposed by this Court and is ready to offer solvent security. On the above grounds, he has prayed to enlarge him on bail.

5. Per contra, the learned Public Prosecutor has filed his objection statement narrating the gist of the prosecution case. He

has strongly opposed the bail application on the grounds that the offences alleged are heinous in nature and there are serious allegations against the accused and filing of the charge sheet strengthen the case. The evidence of main witnesses is yet to be recorded.

Further, there are several cases registered against the Petitioner as follows:

1. In Crime No.175/2022 of Hadadi Police Station, Davanagere district for the offence p/u/s.379 of IPC.
2. In Crime No.123/2022 of Mayakonda Police Station, Davanagere district for the offence p/u/s.379 of IPC.
3. In Crime No.124/2022 of Mayakonda Police Station, Davanagere district for the offence p/u/s.379 of IPC.
4. In Crime No.127/2022 of Mayakonda Police Station, Davanagere district for the offence p/u/s.457, 380 of IPC.
5. In Crime No.129/2022 of Mayakonda Police Station, Davanagere district for the offence p/u/s.379 of IPC.

6. In Crime No.49/2023 of Vidyanagara Police Station, Davanagere district for the offence p/u/s.395 of IPC.

7. In Crime No.159/2023 of Vidyanagara Police Station, Davanagere district for the offence p/u/s.379 of IPC.

8. In Crime No.85/2023 of Mulki Police Station, Mangaluru district for the offence p/u/s.379 of IPC.

9. In Crime No.135/2023 of Udupi Town Police Station, for the offence p/u/s.379 of IPC.

If the accused is released on bail, there are chances of the accused committing similar offences, tampering of witnesses and absconding. On these grounds, the learned Public Prosecutor has prayed for rejection of the bail application.

6. Heard both sides. I have carefully perused the entire materials on record.

7. Based on the above, the following points that arise for my consideration are:

- 1) Whether the accused is entitled for regular bail?
- 2) What Order?

8. Now my findings to the above said points are as follows:

Point No.1 : In the Affirmative

Point No.2 : As per final order.

for the following:

REASONS

9. **Point No.1**: The trial is on hold, due to absence of Accused No.3 before this court and NBW having been issued against him and for the recall application filed by counsel of this accused to summon PW.20 to tender for cross-examination, which has be allowed and for the requisition filed by the witnesses, praying for adjournment due to their other official duties.

10. At present, only two witnesses are left to be examined, one is PW.20, who has to be cross-examined by the counsel for Accused No.1 and the I.O.

11. In the authorities relied by the learned counsel for the accused No.1, in Criminal Appeal No.509/2017 in case of Hussain and another -Vs- The Union of India – Hon'ble Apex court, has observed, deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. This court has held that while a person in custody for a grave offence may not be released if trial is delayed, trial has to be expedited or bail has to be granted in such cases.

In Criminal Appeal No. of 2024 in case of Manish Sisodia – Vs – Directorate of Enforcement- Hon'ble Apex Court- observed, this court, granted liberty to the appellant to move fresh application for bail in case of change in circumstance or in case the trial was protracted and proceeded at a snail's pace in next 3 months.

This court observed that if any application was filed, the same would be considered by the trial court on merits without being influenced by the dismissal of the earlier bail application's including its own judgement. It further observed that the observations made regarding the right on speedy trial will be taken into consideration.

Further that, if the state or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the constitution then the state or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of constitution applies irrespective of the nature of the crime.

12. For the afore said discussion, though the offence's are grievous and serious in nature and as the apprehension of the prosecution that he would abscond and will not be available for the speedy disposal of the case that if he is released on bail, there are chances of him to commit similar offences can be met upon imposing stringent conditions, I am of the opinion that the accused

has made out a case to allow the application for grant of bail. Accordingly, the Point No.1 is answered in the Affirmative.

13. **Point No.2**: In view of my answer to Point No.1 in the Affirmative and for the reasons stated above, this Court proceeds to pass the following:

ORDER

The bail application filed by the accused No.1 under Section 439 of Criminal Procedure Code is hereby allowed.

The accused is ordered to be released on bail in this case, on executing a personal bond for a sum of ₹.1,00,000/- with a surety for the like-sum, subject to the following conditions:

1. He shall not indulge in commission of any similar offences.
2. He shall not tamper or threaten the prosecution witnesses.
3. He shall regularly appear before the Court on all hearing dates without fail.

4. He shall not leave the jurisdiction of the court without prior permission and shall furnish the address proof with mobile number.

If any one of the conditions is violated, the bail is liable to be canceled.

(Typed by the Stenographer Gr.I to the dictation, the transcript corrected and signed by me and then pronounced in the open court on this the 25th day of November, 2025.)

(Sunitha S.G.)
III Addl. District & Sessions Judge,
D.K., Mangaluru.