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**BEFORE THE III ADDL. DISTRICT & SESSIONS COURT AT  
HASSAN**

**PRESENT: Sri. Ananda, B.A.L., LL.B., LL.M.  
III Addl. District & Sessions Judge,  
Hassan**

**Dated this 13<sup>th</sup> day of June, 2025**

**:SC/8/2022:**

Complainant : State by:  
H.N. Pura Town Police Station

**(By Public Prosecutor)**

**V/s**

Accused No.7 : Rizwan Sharif  
S/o Late Babu,  
Aged about 28 years,  
R/o House No.18,  
Near Govt. Primary School,  
R/o Thammenahalli,  
Bangalore North,  
Bangalore city.

**(By Sri. S.P.A. Adv.)**

**ORDER ON BAIL APPLICATION FILED BY THE ACCUSED**  
**No.7 UNDER SECTION 439 OF Cr.P.C**

This application is under Sec.439 of the Code of Criminal Procedure filed on behalf of the petitioner/accused No.7 in S.C No.8/2022 of H.N. Pura Town Police Station in Crime No.132/2015 for the reasons stated therein in connection with offences punishable under Sections 306 R/w Sec.34 of the Indian Penal Code (IPC), in the interest of justice.

**2.** The grant of bail is opposed by the learned Public Prosecutor and prayed to reject the application for the reasons set out in her written objections in the interest of justice.

**3.** Heard arguments from both sides. Perused the materials placed on record.

**4.** The points that arise for my consideration are:

- 1. Whether the petitioner/accused No.7 is entitled for bail as prayed in the application filed under Sec.439 of Cr.P.C.?*
- 2. What order?*

**5.** My answer to the above points is as follows:

*Point No.1: in the **Affirmative**,*

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

**::REASONS::**

**6. Point No.1**:- The case of the prosecution is that, the marriage of Nagma Khan D/o Hazeer Khan, with Jabeer Khan S/o Gouse Khan, had been fixed. However, due to minor disputes between the two families, the marriage was called off. Meanwhile, Ujumala D/o Gouse Khan, who had earlier left home, returned. Upon learning about this, the accused persons (Accused Nos. 1 to 7) began mentally harassing C.W.4 and her family members whenever they were near their house or encountered them on the road. They taunted them by saying that they had taken back the girl who had run away from home and provoked them with remarks suggesting that, rather than living in such a manner, it would be better to drink poison and die. Unable to bear this continuous mental harassment, on 12/06/2015 at around 6:30 PM, C.W. 2 and 3, along with the deceased Pijakhanum, consumed poisoned payasa and fell seriously ill. They were admitted to the Holenarasipura Government Hospital for treatment. However, the treatment was unsuccessful for Pijakhanum, and she passed away at around 7:30 PM on the same day in the hospital. CW-2 and 3 survived after receiving treatment. It has been established through investigation that the

accused persons namely., Accused No. 1 to 7, with a common intention, mentally harassed C.W. 2 and 3 and the deceased Pijakhanum, thereby abetting their suicide. After completing the investigation, a charge sheet was filed against the in Crime No.132/2015 for the offence as referred supra.

7. The counsel for the petitioner/accused No.7 while addressing his arguments contends that the said accused had previously been granted bail by the Hon'ble Court. The accused No.7 is engaged in the business of selling scrap materials, which often requires him to travel to various towns. Due to such travel related to his business, the accused was unaware of the scheduled hearing dates and was absent on the respective dates. This absence was not intentional or with any malicious intent, but purely due to genuine reasons. Subsequently, a warrant was issued against him, and the accused was taken into judicial custody. Currently, he remains in judicial custody in connection with the said case. As per the complainant and the investigating police, a final report has already been submitted before the Hon'ble Court. The complainant has clearly stated that the accused has not committed any offence, and a false case has been filed against him. The accused has been in judicial custody since

24.03.2025. The accused is a law-abiding citizen and has a permanent residence at the address mentioned in the cause title. He possesses both movable and immovable properties. If released on bail, there is no likelihood of him absconding. He earns his livelihood by running a scrap business. Due to his prolonged detention, there is a risk of him becoming physically and mentally weak. If the Hon'ble Court releases the accused on bail, he assures that he will not influence or intimidate the complainant or any witnesses and will not obstruct the ongoing trial proceedings. The accused has no criminal background and has never been involved in any criminal case. He is a person who respects the law. The accused has an aged mother, a wife, and children who are completely dependent on him for their survival and well-being. Due to his continued judicial custody, the family is facing extreme financial hardship. If the Hon'ble Court does not release him on bail, there is a likelihood that his family will be rendered destitute. Hence, this bail application is being filed on behalf of the accused, who is currently in judicial custody. The accused is willing to abide by any conditions that the Hon'ble Court may impose while granting bail. He undertakes to appear before the Court on all scheduled hearing dates and is prepared to furnish suitable

sureties to the satisfaction of the Hon'ble Court. Hence, for the forgoing reasons, the learned counsel for the accused No. 7 sought to enlarge him on bail.

**8.** On the contrary, the learned Public Prosecutor vehemently argued for the rejection of the bail application filed by the petitioner. In the main case in S.C No.60/2016, dated 15/11/2017, a fine of Rs.1,000 was imposed on the accused by the Hon'ble Court. On 28/11/2018, in Cri. Misc. No. 1357/2018, the accused was granted bail. Subsequently, the charge sheet was filed before the Hon'ble Court. However, due to the accused's continuous absence to the court, a separate the proceeding was initiated against the sureties after forfeiting the bond. Meanwhile, on 28/03/2022, the accused filed a bail application, which the Hon'ble Court allowed. But again, the accused remained absent to the court and on 24/03/2025, police arrested and produced him before the Hon'ble Court. If the accused is released on bail again, there is a strong possibility that he will repeat the same behavior and remain absent. Since this is a case of the year 2015, speedy disposal is necessary, and it is requested that the accused should remain in judicial custody during trial. There is prima facie evidence of the accused's involvement in the offense, as stated in

the FIR and charge sheet. If granted bail, there is a risk of tampering with evidence, influencing witnesses, or luring them with inducements, which would cause irreparable damage to the prosecution's case. The offense committed by the accused is serious, punishable by up to 10 years of imprisonment and a fine. The case is at the trial stage, and his release on regular bail may obstruct the trial proceedings. If released during the trial, the accused may threaten or intimidate key witnesses, preventing them from giving truthful testimony before the court. There is a risk that the accused may harm or threaten the complainant's family or commit even more heinous crimes if released on regular bail. There is a high chance that the accused may bribe or lure witnesses, prevent them from appearing in court, and thereby delay or obstruct trial. This would severely impact the prosecution. For a fair and speedy trial without interference, it is essential for the accused to remain in judicial custody. Hence, granting regular bail is not appropriate at this stage. The Hon'ble Supreme Court in several cases has stated that even after the filing of the charge sheet, in serious cases, courts must consider the gravity of the offense and its impact on society before granting bail. Further it is contended that in the current case, no changed

circumstances have arisen that would justify the filing of a fresh bail application by the accused. The mere filing of a charge sheet does not constitute a changed circumstance. This principle was laid down by the Hon'ble Supreme Court in 2017 (2) Crimes 56 SC. Therefore, in this case, no changed circumstances are found, and hence, the application filed by the petitioner is not maintainable and is liable to be dismissed. Hence, on these and amongst other grounds, the Public Prosecutor sought for dismissal of the bail application filed by accused.

**9.** Upon perusal of the records, it is evident that this Court had posted the matter for framing of charge on 13.06.2022. However, subsequent to the said date, accused No.7 failed to appear before the Court on the following dates, which led to the initiation of proceedings against the surety of accused No.7. It is further revealed that, in view of the continued non-appearance, a non-bailable warrant was issued, and in execution of the same, the respondent police secured the presence of accused No.7 and produced him before this Court on 24.03.2025. Now, the accused No.7 has moved the present application seeking regular bail. Accused No. 7 contends that his absence was unintentional. Additionally, Accused No. 7 asserts his willingness to comply with



any conditions and cooperate with the trial proceedings. The accused No.7 has been in judicial custody since 24.03.2025, and the trial is yet to commence. Continued detention at this stage would amount to pre-trial punishment, which is impermissible in law, especially when the trial may take considerable time. It is not in dispute that the charge sheet has been filed, and the presence of the accused No.7 is no longer required for custodial interrogation. The role attributed to the accused No.7 has already been investigated and revealed in the final report. Considering the arguments put forth in the bail application, it is the opinion of this court that Accused No. 7 has provided grounds for being released on bail. It is worth noting that the charge sheet has already been filed, and the case has to be scheduled for trial. Consequently, it is neither just nor necessary to further detain Accused No. 7. Any concerns raised by the prosecution can be addressed by imposing specific conditions on Accused No. 7. Considering all these aspects, I answer this point is in the **affirmative**.

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

**ORDER**

The regular bail petition filed by accused No. 7 u/s 439 of Cr.P.C. is hereby allowed.

The accused No. 7 is ordered to release on bail in S.C. No. 8/2022 of Pension Mohalla P.S. Crime No.132/2015 for the offences punishable u/s 306 R/w 34 of IPC on executing his personal bond for Rs.50,000/- with two sureties for like sum on the following conditions:-

- 1. The petitioner/Accused No. 7 shall not threaten or tamper with the prosecution witnesses.*
- 2. The petitioner/Accused No. 7 shall not leave jurisdiction of the court without written permission.*
- 3. The Petitioner/Accused No. 7 shall appear before the court on all the date of hearing without fail unless exempted by this court on genuine grounds.*
- 4. If the Petitioner/Accused no. 7 fails to comply with any of the conditions stipulated herein*

*above, it is open to the prosecution to move the  
court for cancellation of bail.*

*(Dictated to the Stenographer directly on computer, typed by her,  
corrected and then pronounced by me in the open court, on this the  
**13<sup>th</sup> day of June, 2025**)*

**(Sri. Ananda)**  
*III Additional District & Sessions  
Judge, Hassan*