

KAHS010009162016



**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 the 05th day of November, 2025

:SC/7/2016:

Complainant : State by:
Gorur Police Station

(By Public Prosecutor)

V/s

Accused : **4.** Saddam @ Mahammad Saddam,
S/o Masthan Basha,
Aged about 32 years,
R/o Haluvagilu circle,
B.M. Road, Bypass, Hassan.

(By Sri. H.J.R., Adv.)

ORDER ON BAIL APPLICATION FILED BY THE ACCUSED
No.4 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.4 in S.C No.7/2016 of Gorur Police Station in Crime No.74/2015 for the reasons stated therein in connection with offences punishable under Sections 395 and 397 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.4 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 are 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, within the jurisdiction of Goruru Police Station, near Kittane Village, at a house situated in one Babu's plantation where C.Ws.1 and 2 were residing, the alleged incident took place on 08.05.2015 at about 2:00 a.m. It is stated that while C.Ws.1 to 3 were asleep inside the said house, the accused persons, namely Accused No.1 – K.T. Yogesh, Accused No.2 – Syed Salman, Accused No.3 – Mubarak Pasha, Accused No.4 – Saddam N. Umman, Accused No.5 – Shabbas Ali Khan and another person, came there in a Maruti 800 car bearing registration No. KA-05-M-6717. The accused persons, who were armed with iron rods, proceeded to the rear portion of the house and broke open the back door to gain entry. On hearing the commotion, C.W.1 woke up and went towards the cattle shed, whereupon Accused No.5 allegedly threw chilli powder into his eyes. It is further alleged that Accused No.4 held a knife to the neck of C.W.1 and threatened to kill him if he raised any alarm. The accused persons then forced C.W.1 to sit on the divan cot in the middle room. Accused No.1 flashed a torchlight to illuminate the house, while Accused No.5 snatched from C.W.1 one Nokia mobile phone and one Farm Company Chinese mobile

phone. Meanwhile, Accused Nos.2 and 3 entered the room where C.Ws.2 and 3 were sleeping. They threatened them with iron rods and demanded gold ornaments. It is alleged that Accused No.3 took away one Nokia mobile phone from C.W.2 and further demanded gold. Out of fear, C.W.3 removed her gold mangalya chain and handed it over to Accused No.3. Thereafter, Accused Nos.2 and 3 broke open a cupboard using iron rods and took away the following items: one gold chain, five gold rings, one pair of gold (jumki) earrings, three gold bangles, and cash amounting to Rs. 21,540/-. After committing the said act of robbery, the accused persons fled from the spot. During the course of investigation, the police apprehended Accused Nos.1 to 5 on 27.08.2015 and Accused No.6 on 28.08.2015. Based on their voluntary statements, the Investigating Officer recovered from C.W.18 the gold ornaments weighing 121.550 grams, valued at approximately Rs. 3,38,750/-, which had been pledged or sold by the accused. The police also recovered one knife, one torchlight, and one mobile phone each from Accused Nos.2 and 5. Upon completion of investigation, it was revealed that all the accused persons had jointly committed the said offence. Accordingly, based on the

complaint, a case was registered in Crime No.84/2012, and after investigation, a charge-sheet came to be filed against the accused persons in Crime No.84/2014 for the offences as stated supra.

7. The counsel for the petitioner/accused No.4 while addressing his arguments contends that the accused is an innocent and law-abiding citizen who has not committed any of the offences alleged by the complainant. The counsel further submitted that the version of the complainant clearly indicates that the complaint is a fabricated and concocted story made with the sole intention to harass the accused. It is further submitted that the name of the accused is neither mentioned in the complaint nor was he identified by the complainant. Despite this, he has been arrayed as Accused No.4 in the charge sheet filed by the respondent police. The charge sheet has already been filed and the recovery proceedings are also completed. Nothing has been recovered from the accused in connection with the said crime. Hence, the question of tampering with witnesses does not arise at all. It is further submitted that the accused had earlier been released on bail by this Hon'ble Court and had been regularly appearing before the Court. Subsequently, he was taken

into judicial custody in another case by the Hon'ble Principal Civil Judge and JMFC, Holenarasipur and thereafter, a remand warrant was issued by this Hon'ble Court. Therefore, the present petition is filed seeking regular bail. The accused has been in judicial custody for more than six months and any further detention along with hardened criminals would seriously endanger his future and that of his family. The accused is a permanent resident of the address mentioned above and possesses landed property. The accused is the sole breadwinner of his family, which consists of his aged parents, a pregnant wife and a minor child. If the accused is not released on bail, he and his family members will be subjected to severe hardship and irreparable loss, which cannot be compensated monetarily. The accused is ready and willing to abide by any conditions that may be imposed by this Hon'ble Court under the circumstances of the case. Hence, for the forgoing reasons, the learned counsel for the accused No.4, 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 and she has denied the averments of bail application.

She further submitted that on 03/03/2016, the accused was taken into custody and produced before the Hon'ble Court. Subsequently, on 10/03/2017, the Hon'ble Court released the accused on bail. The said bail order directed that the sureties should each furnish a bond of Rs. 50,000/- on 17/05/2017, the accused was released from judicial custody. Thereafter, on 22/06/2017, since the accused failed to appear before the Court, the Hon'ble Court issued a non-bailable warrant against the accused and also issued a notice to the sureties. Accordingly, on 04/09/2017, the sureties appeared before the Court and requested time to produce the accused before the Court. On 20/11/2017, Gorur Police submitted a report stating that the accused was lodged in the Kadur Jail as UTP No. 2050, and requested that a body warrant be issued against him. Thereafter, the accused was produced before the Court through a body warrant. On 03/12/2021, the Hon'ble Court recalled the non-bailable warrant earlier issued against the accused. However, since the accused again failed to appear before the Court, another warrant was issued against him. Subsequently, on 29/11/2022, the Gorur Police submitted another report seeking a body warrant

against the accused, as he was involved in other criminal cases. On 13/10/2023, notices were issued to the sureties, but as they failed to appear before the Court despite receiving the notice, the Hon'ble Court passed criminal orders against them on 22/11/2024. Later, on 13/07/2025, the Gorur Police arrested the accused and produced him before the Court.

9. She further argued that the trial of the case has already commenced and the examination of witnesses has begun. If the accused is released on bail at this stage, there is every likelihood that he may again abscond. Therefore, releasing the accused on bail would delay the expeditious disposal of this long-pending case. Hence, the prosecution prayed that the accused be kept in judicial custody until the completion of witness examination. The petitioner/accused No.4 is presently in judicial custody and the case is still under trial. At this stage, the petitioner/accused No.4 is not entitled to regular bail. There exists sufficient oral and documentary evidence against the accused No.4 and the witnesses examined so far have deposed about his involvement in the offence. Therefore, at this stage, the accused is not entitled to be released on bail. If the accused is released on bail, there is every

possibility that he may threaten the complainant and the complainant's family members. The offences committed by the accused are heinous and non-bailable in nature and hence, at this stage, he is not entitled to regular bail. The materials available on record, including the FIR and the charge sheet, prima facie establish the commission of the offence by the accused. If the accused is released on bail, he is likely to destroy evidence, influence witnesses, offer inducements, or engage in other unlawful acts, which would cause irreparable loss and prejudice to the prosecution case. Hence, his bail application deserves to be dismissed. Hence, on these and amongst other grounds, the Public Prosecutor sought for dismissal of the bail application filed by accused No.4.

10. The discussion in this case focuses solely on the bail application without addressing the merits and demerits of the case itself. It is not in dispute that the investigation in the present case is already completed and the charge sheet has been filed. Hence, the continued detention of the petitioner is not required for any further investigation purpose. The material placed on record indicates that the petitioner had earlier been released on bail by this

Court on 22.03.2017 and thereafter, he became very irregular to the court proceedings. The records further reveal that the accused No. 4 was secured to the court through body warrant, due to his confinement in another case. The petitioner has been in judicial custody for a considerable period and the trial is still pending. The examination of witnesses has commenced but is not yet concluded. In such circumstances, the prolonged detention of the accused would not serve any fruitful purpose, particularly when the investigation is already over. The petitioner is a permanent resident of the address shown in the cause title. Though the prosecution has expressed apprehension that the accused may abscond or threaten witnesses if released on bail, such apprehensions can be duly addressed by imposing stringent conditions to ensure his regular attendance and to safeguard the prosecution's interest. Having regard to the overall circumstances of the case, the nature of the allegations, the stage of trial and the period of custody already undergone by the petitioner, this Court is of the opinion that no fruitful purpose would be served by keeping the petitioner/accused No.4 in further judicial custody. Accordingly, this Court finds that the petitioner/accused No.4 is entitled to be en-

larged on bail, subject to appropriate conditions. Considering all these aspects, I answer this point is in the **affirmative**.

11. Point No.2:- In view of my findings on Point No.4, I proceed to pass the following order.

ORDER

The regular bail petition filed by accused No.4 namely Saddam @ Mahammad Saddam S/o Masthan Basha u/s 439 of Cr.P.C. is hereby allowed.

The accused No.4 is ordered to release on bail in S.C. No. 7/2016 of Gorur P.S. Crime No.84/2014 for the offences punishable u/s 395 & 397 of IPC on executing his personal bond for Rs.1,00,000/- with two unencumbered sureties for like sum on the following conditions:-

1. *The petitioner/Accused No. 4 shall not threaten or tamper with the prosecution witnesses.*
2. *The petitioner/Accused no. 4 shall not leave jurisdiction of the court without written permission.*
3. *The Petitioner/Accused no. 4 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. 4 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 him, corrected and then pronounced by me in the open court, on this the **05th day of November, 2025**)*

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