

KAHS010019652018



Presented on : 17-04-2018

Registered on : 17-04-2018

Decided on : --

Duration :

**BEFORE THE III ADDITIONAL DISTRICT AND
SESSIONS JUDGE AT HASSAN**

Present: Smt.Roopaa Ramarao Kulkarni
B.Com., L.L.B.,
III Addl. District & Sessions
Judge, Hassan.

Dated this the 28th day of December, 2021

SC/71/2018

Complainant :: State by
Gorur Police Station

(Rep. by learned P.P.)

V/S

Accused : Syed Salman S/o Gulab Dasthagir,
no.2 Aged about 32 years,
House no.310/A, 2nd corss,
1st stage, Belavathha village,
Kesare, Mysore District.

**(Rep. by Sri K.V.Y.,
Advocate)**

: ORDERS ON BAIL APPLICATION :

Accused no.2 is in J.C. and he has filed Bail Application U/Sec.439 Cr.P.C. for Regular Bail.

2. In the application he has stated that, he is innocent of the alleged offence and he has not committed any offence and he is law abiding citizen. It is submitted that accused is in judicial custody since 28.10.2021 and the complainant police have filed charge sheet against the accused after investigation. It is also submitted that in the accident, accused no.2's right leg is broken and he needs further treatment and his mother is also suffering pain in back bone and age related health issues and for her further treatment and to look after her, release of accused on bail is necessary. It is also submitted that accused no.2 is granted bail in Cr.no.142/2021 in 3rd Addl., Civil Judge and JMFC., at Mysore. Accused is doing coolie and he is the sole bread earner in the family and he is having permanent residence in the above said address possessing movable and immovable properties and he is ready to abide by any conditions that may be imposed on him for his release. Accordingly, prays for allowing the application.

3. The prosecution has filed detailed objections stating that, accused has committed serious offence. It is submitted that accused is habitual offender and he is taken dacoity as his profession and if he is released on bail, he may commit similar offence and may threaten the prosecution witnesses and may abscond from the jurisdiction of the court. There is no valid grounds available to the accused to grant bail. Accordingly, prays for rejection of application.

4. Heard the arguments of both sides.

5. The points that arise for consideration are:

1. Whether the accused has made out grounds for his release on bail for the reasons stated in the application filed U/Sec.439 of Cr.P.C ?
2. What order?

6. 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::

POINT NO.1:-

7. The jurisdictional police have registered case against the accused for the offences punishable U/Sec. 395 and 397 of IPC. Now, charge sheet is filed for the above said offences.

The allegations against the accused is that, within the jurisdiction of Gorur Police Station near Kithane Village, in the farm house belonging to C.W.5, C.W.1 to C.W.3 were residing and on 08.05.2015 at about 2 am., in the morning, when C.W.1 to C.W.3 were sleeping at that time, accused no.1 to 6 came there in Maruthi car bearing registration no.KA-05-M-6717 and with the help of iron rod, kept the backside door of C.w.1 to C.W.3 outside and when the cattle which were tied in the backyard frightened, C.W.1 came to the place where cattle were tied, then accused no.5 thrown chilli powder to the face of C.W.1 and accused no.4 held the knife to the neck of C.W.1, and threatened him that if he screams, he will kill him and then he made him to sit on Diwan cot, then accused no.1 shown the light with the help of torch in the house , accused no.5 stolen the Nokia mobile, one China set mobile of Farma company and accused no.2 and accused no.3 went to the room where C.W.2 and C.W.3 slept and by showing rod to them, accused no.3 had stolen one Nokia mobile phone, and gold ornaments and threatened C.W.3, then C.W.3 had given golden Mangalya chain which was worn by her to accused no.3, afterwards, accused no.2 and 3 with the help of iron rod, broken Godrej Almerah and stolen gold chain belonging to C.W.2 and C.W.3 and 5 golden finger rings, one pair of ear rings, 3 golden bangles and Rs.21,540/- of cash . Afterwards,

C.W.39 on 27.08.2015 and on 28.08.2015 arrested accused no.1 to 6 and according to the voluntary statements given by them, had seized the stolen articles from the accused no.1 to 6 and registered case against them.

8. Now, the accused no.2 has filed the present application praying for his release on bail. On perusal of the charge sheet materials, it is alleged that the accused persons with an intention to commit robbery or dacoity came to the Farm house belonging to C.W.5 and on 08.05.2015, when C.W.1 to C.W.3 who were residing in the said Farm house were sleeping, came to the house and stolen golden ornaments, cash and mobile phones and committed dacoity by threatening them that they would kill them if they scream by showing iron rod and had also thrown chilli powder on the face of C.W.1.

9. On perusal of the records, it is clear that investigation is already completed and jurisdictional police have filed charge sheet. Accused is in judicial custody since 2 months. The counsel for accused has produced the medical records of accused and his mother and also the order copy of III Addl., CJ and JMFC., Mysore wherein the present accused no.2 is released on bail. On looking to the records produced by the counsel for accused, it appears that the

accused needs further treatment as his left leg is broken due to the accident and his mother also needs further treatment as she is suffering from age related health issues. Moreover, investigation is completed and charge sheet is already filed and further detention of accused in judicial custody is not necessary and looking to the nature of offence, it is proper to release the Accused no.2 on bail by imposing necessary conditions. Accordingly, point no.1 is answered in the **Affirmative.**

10. Point No.2:- For the discussions made on point no.1, following order is passed:

ORDER

Bail Petition filed for Accused no.2
by name Syed Salman S/o Gulab Dasthagir
under Section.439 of Cr.P.C., is hereby allowed.

Accused no.2 is enlarged on bail, on
executing personal bond for Rs.50,000/- with
one local surety for likesum, subject to
following conditions

1. Accused no.2 shall not threaten or try to
coerce the complainant or witnesses.

2. Accused no.2 shall appear before the court on all dates of hearing without fail.

(Dictated to Stenographer directly on computer, typed by her, and after corrections, pronounced in the open Court on this the 28th day of December, 2021)

(Roopa Ramarao Kulkarni)
III Addl. Dist. & Sessions
Judge, Hassan.