

**IN THE COURT OF THE XXVIII ADDL. CITY CIVIL & SESSIONS
JUDGE**

Mayo Hall, Bangalore, [CCH.NO.29]

Present :- Sri. Krishnaji Baburao Patil, B.Com., LL.B.,(Spl.)

Dated this the 29th day of June 2020

Crl.Misc.No.25303/2020

Petitioner: Nagaraj.M,
S/o Muniyappa,
No.13, 5th Cross,
Jogi Colony,
Madiwala Check Post,
Madiwala,
Bngalore-560 095.

(By pleader Sri. K. Chandramohan)

V/s

Respondent: State by;
Jeevan Bheemanagar Police Station
Bengaluru.

(By Public Prosecutor)

ORDERS

The present Petition is filed by the Petitioner under Section 438 of Cr.P.C., for anticipatory bail in Cr.No.49/2020 of Jeevan Bheemanagar Police Station for the offences punishable under

Section 323, 327, 341, 504, 506 r/w 34 of IPC.

2. The case of the Prosecution is that, on the basis of the complaint alleging that on 1.3.2020 at about 5.30 p.m., the Complainant went to Sure Bar and Restaurant, situated at Kodihalli, Old Airport Road, at the same time the Complainant's known people i.e., Nagaraj and other two friends came to the bar, the said Petitioner asked the Complainant to order a drink and the Complainant had ordered for a beer and chicken fry. Later when the Complainant took the purse to pay the bill, the Petitioner saw the amount in the Complainant's purse and demanded Rs.2,000/- as hand loan and also told that he will return the same within 2 or 3 days. The Complainant refused to give and expressed that he wants to pay the school fees. The Petitioner shouted in vulgar language and hence the Complainant came out of the bar. The Petitioner and others followed the Complainant and again demanded for money by holding the collar of the shirt and assaulted the Complainant on his left eye by hands and took the mobile and purse which containing Rs.12,000/- from the Complainant. Thereafter, the friends of the Petitioner held the Complainant and assaulted on

the back of the Complainant and also threatened the Complainant not to give complaint. On the basis of this Respondent Police registered the case against the Petitioner.

3. The Petitioner has contended that he is innocent of the alleged offences and he is permanent resident of Bangalore. The Complainant and Petitioner are friends. Both the parties were in bar and they were drinking, but there was no intension to harm the Complainant. The Complainant has not specified the overt act. The alleged incident took place on 17.30 hours, but the Complainant lodged complaint on 2.3.2020 at 3.00 p.m., i.e., after 22 hours after the incident. The Complainant has stated that the Petitioner has assaulted the Complainant on his left eye, but the Complainant did not go to the nearest hospital for first aid. There is no MLC immediately sustained assault by the Petitioner. The offences are bailable, except Section 327 which is not bailable in nature and the same is triable by the Magistrate. The offences are not punishable with death or imprisonment for life. The Petitioner apprehends arrest in the hands of police any time and if arrested, he will be handcuffed and paraded in public which will bring defame and disrepute to his reputation. The

Petitioner will not flee away from justice and will continue to cooperate with the investigating agency in the event of his release. The Petitioner is law abiding citizen and he is ready to abide by the conditions imposed by this Court and he is willing to offer surety to the satisfaction of the Magistrate. He undertakes to appear before the Court as and when called for. Hence, prays for allowing the Petitioner.

4. For the said Petitioner the Learned PP has filed objections along with the CD contending that the offences alleged against the Petitioner are under Section 323, 327, 341, 504, 506 r/w 34 of IPC. The offences are non-bailable and cognizable with imprisonment for a term which may extend to 10 years and with fine. In the present case, accused not only caused voluntary hurt and also extorted money from the Complainant. The Petitioner is required for investigation. If the Petition is allowed, the Petitioner may tamper the prosecution witnesses and also he may abscond from the jurisdiction of this Court. Hence, prays for dismiss the Petition.

5. On the basis of the above, the point that arises for

my consideration are:-

- 1) Whether the Petition deserves to be allowed?
- 2) What order?

6. My answer to the above points are :

Point No.1 : In the Affirmative

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

REASONS

7. The offences alleged against the Petitioner in the present case are under Section 323, 327, 341, 504, 506 r/w 34 of IPC. All the offences alleged against the Petitioner are triable by Magistrate. The offences alleged are not punishable with death or imprisonment for life. The Petitioner and Complainant are knowing each other and the incident was occurred in the bar and both the Petitioner and the Complainant were consuming drinks. The Prosecution is not completely known about the criminal antecedents of the Petitioner in the present petition. Considering the facts and circumstances of the present case, this Court is of the view that these Petitioner is entitled for the anticipatory bail as prayed in the Petitioner. The apprehension of

the prosecution can be met with by imposing conditions. With this observation, I answer Point No.1 in the Affirmative.

8. **Point No.2**:- In the result, this Court proceeds to pass the following:-

ORDER

The Petition filed by the Petitioner under Sec.438 Cr.P.C., is hereby allowed.

The Respondent Police are hereby directed to release the accused on his arrest in Cr.No.49/2020 of Jeevan Bheema Nagar Police Station for the offences punishable under Section 323, 327, 341, 504, 506 r/w 34 of IPC., on execution of personal bond for a sum of Rs.1,00,000/- with one surety for likesum subject to following conditions:-

1) The Petitioner shall not tamper with the Prosecution witnesses in any manner.

2) The Petitioner shall appear before the IO as and when called for and co-operate with the investigation of the present case.

3) The Petitioner shall produced Adhaar Card/Identity Card,

contact number, residential address and occupation and also photos of the Petitioner and the sureties while executing bail bond.

4) The Petitioner shall not leave the jurisdiction of this Court without prior permission.

5) The Petitioner shall not change his residence without prior permission of the Court.

[Dictated to the Stenographer, thereafter transcribed and typed by the Stenographer and the same was corrected, signed and then pronounced by me in the open Court on this the **29th day of June 2020**].

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

Orders pronounced in open court
as under (vide separately):-

ORDER

The Petition filed by the Petitioner Nagaraj.M under Sec.438 Cr.P.C., is hereby allowed.

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[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

