

**IN THE COURT OF THE III ADDL. DISTRICT AND
SESSIONS JUDGE, RAMANAGARA**

:Present:

Sri.Siddalinga Prabhu., B.Sc., LL.B.,
III Addl. District and Sessions Judge,
Ramanagara.

Dated this the 22nd day of October 2019

Crl.Misc.No.617/2019

Petitioner:

Krishnappa,
S/o. Late Channegowda,
Aged about 65 years,
Agriculturist,
R/at. Kanchidoddi Village,
Jalamangala Post,
Kootagal Hobli,
Ramanagara Taluk
and District.

(By Sri.H.J., Advocate)

– V/s. –

Respondent:

State of Karnataka,
By Ramanagara Rural Police,
Ramanagara District.

(Rep. Public Prosecutor, Ramanagara)

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ORDERS ON BAIL PETITION FILED UNDER
SECTION 438 Cr.P.C.

The petitioner Krishnappa, aged 65 years, being accused of Cr.No.167/2019, prefers this bail petition u/s 438 of Cr.P.C.

2. At para 4 of his petition, the petitioner narrates the facts of the case. In subsequent paragraphs, the petitioner urge the following grounds viz., that there is no material to show the involvement of this petitioner in the alleged incident, that he has been falsely implicated though there is no nexus between him and the alleged incident. That there are no direct or indirect witnesses for the alleged incident. That no material available to show that the petitioner was selling the alleged drinks in his shop. That the offence alleged punishable neither with death nor with life imprisonment. That the petitioner is considerably aged and in the event of his arrest and handcuffed, his dignity will be lowered. That he is innocent of the offences alleged and a law abiding and peace loving citizen. That he is permanent resident of the address as mentioned in the cause-title. That he is ready

and willing to abide by any of the conditions which may be imposed by this court. By mentioning so, he seeks necessary order of bail in his favour.

3. Per contra, the learned Public Prosecutor vide his objections dated 16.10.2019, opposes the bail petition by mentioning that the bail petition is not maintainable either in law or on facts. That the FIR and other materials collected by the Investigating Officer prima-facie establishes the offences alleged. That the offences alleged being heinous and non-bailable in nature, the bail petition is to be dismissed. That in the event of granting of bail, the petitioner would tamper with the prosecution witnesses and therefore, that the bail petition be dismissed.

4. The above said rival pleadings of the parties hereto give raise to the following points for consideration of this court:

- 1) Whether the petitioner Krishnappa is entitled for an order of anticipatory bail u/s 438 of Cr.P.C?
- 2) What order?

5. This court assigns the following:

REASONS

6. It is necessary and pertinent to mention with regard to the facts of the case. The first information of the case on hand says that on 01.10.2019 at 7.00 p.m., the PSI Lakshmanagowda received a credible information that the petitioner-accused being the owner of a shop was selling the liquor without any permit from the authority. As per the credible information, the PSI along with his men and panchas went near the shop of Krishnappa S/o. Late Channappa, situated at Doddagangavadi Cross, in Government vehicle No.KA-42-G-1017 at 7.45 p.m. That at that time, they found Krishnappa, the accused-petitioner herein, possessing and selling liquor without any valid licence or permit. That after seeing the police personnel, he ran away from the spot and PSI and his men have seized Haywards Cheers Whisky pouches kept in plastic bags and therefore, the case is registered in Cr.No.167/2019 for the offences punishable u/s 32 and 34 of Karnataka Excise Act, 1965.

7. That the offences mentioned in the preceding paragraphs are not punishable either with death penalty or with life imprisonment. It is not the case of prosecution that this accused petitioner was previously convicted by any court of law for any cognizable offence. Nor is it the case of prosecution that this accused is a habitual offender. The apprehension of the State that this accused would tamper with the prosecution witnesses in the event of grant of bail can over come by allowing the bail petition on terms. Therefore, while answering point No.1 in the **Affirmative**, this court proceeds to pass the following:

ORDER

The bail petition preferred by the petitioner Krishnappa, under Section 438 Cr.P.C., is hereby allowed on the following terms:

- 1) That in the event of arrest of petitioner by the respondent police in connection with Cr.No.167/2019 of the respondent Ramanagara Rural police, the petitioner-accused shall be released forthwith on the condition that the petitioner-accused shall

execute personal bond for Rs.25,000/- and shall offer a surety for like sum.

2) The petitioner shall approach the jurisdictional court forthwith and shall move bail petition for regular bail.

3) The petitioner shall make himself available for interrogation by the respondent police as and when they are called upon to do so.

4) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.

5) The petitioner shall not leave the territorial jurisdiction of this court without prior permission of the court.

(Dictated to the Stenographer, thereof transcribed and computerized by her, then corrected, signed and pronounced by me in the open court on this the 22nd day of October 2019)

(Siddalinga Prabhu)

III Addl. District and Sessions Judge,
Ramanagara.