

ORDER ON BAIL APPLICATION FILED BY THE
ACCUSED BY NAME MALLIKARJUN UNDER SECTION 437 OF
Cr.P.C.

The counsel for accused filed bail application U/Sec. 437 of Cr.P.C., to enlarge the accused on bail.

2. It is averred that the accused is nothing to do with the alleged offences. The offences alleged against the accused though non-bailable one, but not so heinous or punishable for death or imprisonment of life. The offences against the accused is triable by this Hon'ble Court. The accused is innocent and having immovable properties in his name and he is the only bread earner of his family. The accused is ready to furnish surety to the satisfaction of Hon'ble Court and ready to abide by the conditions imposed by the Hon'ble Court. On all these grounds the counsel for accused prayed to enlarge them on bail.

3. Learned APP for the state has filed objection to the bail application contending that the application filed by the accused for his enlargement on bail is not maintainable. Further, the Jewargi Police

have registered a case against the accused under C.C.No.253/2022 for the offences punishable U/Sec, 341, 323, 354(B), 504 of IPC. Learned APP further contended that the offences are non-bailable offences. The accused is absconding and did not co-operate with the investigating officer for investigation. If the accused are enlarged on bail he may commit similar offences in future. The accused if enlarged on bail he may threaten prosecution witnesses and may not attend the court proceedings and flee away. On all these grounds, the learned APP prays for dismissal of the bail application of the accused.

4. I have gone through the rival contentions of both the parties. The points that would arise for my consideration is as under:

Point No.1: Whether the application filed by the accused under Section 437 of Cr.P.C. is deserves to be allowed and whether the accused is entitled for grant of bail ?

Point No.2 : What Order ?

5. My answer to the above points are as under:

Point No.1: In the **Affirmative.**

Point No.2: as per final order for the following

REASONS

6. **Point No.1:** Admittedly the police have registered the above case against the accused for the offences punishable under Section U/Sec. 341, 323, 354(B), 504 of IPC. On perusal of the materials available on record it reveals that the complainant police

have registered a case against the accused for the above mentioned offences.

7. The learned accused counsel argued that the offences alleged against accused are not punishable either with death or life imprisonment. Further the accused has made sufficient grounds for his enlargement on bail. Therefore, the accused may be enlarged on bail.

8. Per contra, Learned APP has vehemently argued that the alleged offences against the accused is punishable with imprisonment which may extent to 5 years and further looking to the gravity of the offence committed by accused, he is not entitle for bail. If the accused is granted bail, it would be difficult for the investigating agency to secure the accused. Therefore, the Learned APP has prayed for dismissal of the bail Application of accused.

9. I have heard the arguments advanced by both the sides. The Jewargi Police have registered the case against the accused for the offence punishable U/Sec.341, 323, 354(B), 504 of IPC. It is alleged that accused has assaulted her, wrongfully restrained her and also outraged her modesty and also abused complainant in filthy language.

10. Generally while considering the bail application, it is not necessary for the court to assess the materials placed by either side and to discuss and arrive at a definite conclusion. The function of the court is only to see does the accused has made out sufficient and justifiable grounds for grant of bail. The accused in his application urged that he is innocent. It is pertinent to note that the present case is registered on 25-06-2021 and the accused file bail application and

till today the investigating officer nor the prosecution filed any requisition seeking police custody of the accused for further interrogation. Moreover the police have lodged the FIR against the accused U/Sec. 341, 323, 354(B), 504 of IPC. Though the said offences are non-bailable offences, but he is not punishable either with death or life imprisonment and the said offences are bailable in nature. Admittedly the police have not sought for police custody of accused till today.

11. It is pertinent to note here that while dealing with bail application two aspects has to be kept in mind. First one is that if there is a possibility of abscondence of the accused and second one is that if there are chances that the accused may threaten prosecution witnesses then the court can reject the bail applications. It is gathered from the documents available on records that accused has got properties at his residence. Therefore, there are no chances of abscondence of the accused in this sense the contention raised by the prosecution regarding the abscondence of the accused can be safely ruled out. Further by imposing stringent conditions while granting bail to the accused the apprehension of the prosecution can be taken care off. Therefore, by considering all these aspects, I am of the considered view that the accused has made out sufficient grounds to enlarge him on bail. **Hence, I answer point No.1 in the affirmative.**

12. **Point No.2** : For the findings given in point No.1, I proceed to pass the following :

ORDER

The bail application filed by the accused under section 437 of Cr.PC is hereby allowed subject to the following conditions.

1. The accused shall execute Personal Bond for Rs.25,000/- with one surety.
2. He shall not tamper with the prosecution witnesses.
3. He shall not indulge in similar offences.

Sr.CJ. & JMFC, Jewargi.

One surety by name Gangamma S/o Tippanna, Age: 53 years, Occ: Agriculture, R/o Halabavi village, Shahapur taluk is present.

The surety is present before the Court and produced the RTC extract of agriculture land bearing Sy.No.74/1 measuring 01 acre 08 guntas situated at Halabavi village of Shahapur taluka and she has also filed surety affidavit stating that she is ready and willing to stand as surety for the accused. She has also undertaken to abide by the conditions put forth by this Hon'ble Court in lieu of release of accused on bail. She also undertakes and to keep the accused present before the court on every date of hearing.

Perused, enquired and satisfied.

Hence, surety ship is accepted.

Office is directed to take bond.

Call on for HBC by 25-07-2023.

Sr.CJ. & JMFC, Jewargi.