

KABR200007412022



Presented on : 04-11-2022
Registered on : 04-11-2022
Decided on : 17-11-2022

**IN THE COURT OF THE III ADDL. DISTRICT & SESSIONS
JUDGE, BENGALURU RURAL DISTRICT,
SIT AT ANEKAL.**

: PRESENT:

**Sri. KARABARI RAVINDRA, B.A. LL.B. (SPL)
III Addl. District & Sessions Judge,
Bengaluru Rural District, sit at Anekal.**

DATED THIS THE 17TH DAY OF NOVEMBER 2022

Crl. Misc. No.5416/2022

BETWEEN :

1. Sri. Nanjundappa S/o Late.
Gurappa, Aged about 51 years,

: Petitioner No.1 /
Accused No.1

2. Smt. Manjula, W/o.
Nanjundappa, Aged about 40
years,

: Petitioner No.2 /
Accused No.2

3. Sri. N. Naveen Kumar, S/o.
Nanjundappa, Aged about 31
years,

: Petitioner No.3 /
Accused No.3

Petitioner No.1 to 3 all are R/at
163, Masathenhalli, Hennagara

Post, Jigani Hobli, Anekal Taluk,
Bangalore District.

5. Smt. Vanitha .N. D/o
Nanjundappa, W/o
Lakshiminaraya, Aged about 29
years, R/at No.394, Near
Ganesha Temple, Muthanallur,
Sarjapura Hobli, Anekal Taluk,
Bangalore-560 099.

: Petitioner No.4 /
Accused No.4

6. Smt. Jagadamba .D/o
Nanjundappa W/o Jayarama,
Aged about 22 years, R/at
No.94, Near Poojamma Temple,
Thattanahalli, Marsur Post,
Anekal Taluk, Bangalore District.

: Petitioner No.5 /
Accused No.5

(Represented by Sri. S.H. Law
Associates., Advocate)

AND

KABR200007372022



Presented on : 04-11-2022
Registered on : 04-11-2022
Decided on : 17-11-2022

IN THE COURT OF THE III ADDL. DISTRICT & SESSIONS
JUDGE, BENGALURU RURAL DISTRICT,
SIT AT ANEKAL.

: PRESENT:

Sri. KARABARI RAVINDRA, B.A. LL.B. (SPL)

**III Addl. District & Sessions Judge,
Bengaluru Rural District, sit at Anekal.**

DATED THIS THE 17TH DAY OF NOVEMBER 2022

Crl. Misc. No.5413/2022

BETWEEN :

1. Smt. Pushpa .G, W/o K.N. Mahanthesh, Aged about 43 years, R/at No.234, 3rd Cross, Janathacolony, Opp. to Vinayaka Temple, Kachanayakanahalli, Bangalore-560 105.

: Petitioner No.1 /
Accused No.6

2. Sri. Veerabhadraswamy, S/o. Late Rudrappa, Aged about 38 years, R/at No.196/2, Post Office Road, Near Post Office, Hennagara Village, Jigani Hobli, Anekal Taluk, Bangalore -560 105

: Petitioner No.2 /
Accused No.7

3. Sri. Chinnappa S/o. Lingappa, Aged about 39 years,

: Petitioner No.3 /
Accused No.8

4. Sri. Krishnappa, S/o. Late Siddappa, Aged about 38 years,

: Petitioner No.4 /
Accused No.9

Petitioner No.3 and 4 are R/at Hennagara Post, Jigani Hobli, Anekal Taluk, Bangalore District.

5. Smt. Kavitha, W/o Murugesh, Aged about 45 years, R/at No.289/1, Band Box Road,

Hongasandra, Bangalore
-560068.

: Petitioner No.4 /
Accused No.10

6. Sri. K.L. Mahanthesh, S/o Late
Nagappa, Aged about 50 years,
R/at No.33/1, 3rd Cross,
Janathacolony, Opp. to Vinayaka
Temple, Kachanayakanahalli,
Bangalore-560 105.

: Petitioner No.6 /
Accused No.11

7. Sri. S. Manjunath, S/o.
Shivakumar, Aged about 38
years, R/at Masthenahalli, Jigani
Hobli, Anekal Taluk, Bangalore.

: Petitioner No.7 /
Accused No.12

8. Sri. Prasana Kumar
(Wrongly Mentioned as
Prashantha Kumar), S/o. Late
Ramaiah, Aged about 63 years,
R/at No.3/65, Kumbar Pet,
Anekal Town and Taluk,
Bangalore District.

: Petitioner No.8 /
Accused No.13

(Represented by Sri. Madhu .M.,
Advocate)

AND

State of Karnataka represented
by Jigani Police Station.

: Respondent.

(Represented by the Learned
Public Prosecutor)

: O R D E R S :

Both petitions are arises out of same Cr.No. 213/2022 of Jigani Police Station. The Crl.Misc.No.5413/2022 is clubbed with Crl.Misc.No.5416/2022. The Petitioners in Crl.Misc.No. 5416/2022 and Crl.Misc.No.5416/2022 have filed the bail application under section 438 of Cr.P.C. with an request to grant the Anticipatory Bail in Cr.No.213/2022 of Jigani Police Station for the offence punishable under section 423, 120B, 418, 420, 464 of Indian Penal Code.

2. The brief facts of bail application is that, on 28.10.2022 at 11-00 A.M. the court P.C.No.200, Prathap has taken the complaint which was referred in P.C.R.No.222/2021 from the court under section 156(3) of Cr.P.C. filed by the complainant by name K.V. Ramanareddy. The complainant has filed the complaint before the Additional Civil Judge and JMFC Anekal with allegation that property bearing Sy.No.58/3 measuring 0.22.08 guntas out of 2 acre 10 guntas situated at Rajapura Village, Jigani Village, has

purchased from one Nanjundappa and his family members on 10.07.2006, since the date of purchase all the documents were in the name of complainant, when such being the case to grab the property with an intention the petitioners are not connected to the said property. The one Pushpa and others have created the documents to cheat the complainant. They have created the documents and entered into registered agreement of sale in favour of Mahanthesh and Manjunath in respect of Sy.No.58/3 measuring 0.22.08 guntas of Rajapura Village, before the sub registrar office Anekal. So the complainant has filed the Private complaint before the III Additional Civil Judge and JMFC Anekal and same is referred as section 156(3) of Cr.P.C. and Jigani Police Station has registered the Cr.No.213/2022 for the offence punishable under section 423, 120B, 418, 420, 464 of Indian Penal Code. So there is apprehension of arrest of the Petitioners and they have applied for Bail on the following grounds.

3. The Petitioners are innocent and they have not

committed any offence. They have been falsely involved. The allegation made in the complaint does not attract the section 418, 420, 423, 464, 120B and there is no over acting in respect of petitioners. So they are ready to abide any conditions imposed by this court and requested to allow the bail application.

4. The Learned Public Prosecutor has filed the separate objection in both bail applications and taken together as under;

On the basis of complaint the Jigani Police Station has registered the Cr.No.213/2022 for the offences punishable under Sections 418, 423, 120B, 420, 464 of Indian Penal Code. Further contended that as per averments made in the compliant. Further contended that both applications are not legally maintainable and still investigation is not completed. The offence under section 420 of Indian Penal Code is non-bailable and provided punishment for 10 years and fine. Further relied upon **Crl. Appeal. No.**

1575/2019 Dr. Lakshman vs. State of Karnataka. The offences are non-bailable. In case of released on bail there is chance of tampering prosecution witnesses, causing hindrance in the investigation and absconding the jurisdiction and requested for rejection.

5. Heard, perused the records, the following Points for my consideration as under:

1. Whether the petitioners have made out the prima-facie to grant the bail under section 438 of Cr.P.C. in Crl.Misc.No. 5413/2022 and Crl.Misc.No.5416/2022 and both petitions are fit to be allowed.?

2. What order?

6. My findings on the above Points are as under:

Point No.1	:	In the Affirmative.
Point No.2	:	As per final Order

7. **Reasons on Point No.1** :- I have perused

averments made in the both bail application, their objections and police papers. On the basis of compliant Jigani Police Station has registered the Cr.No.213/2022 for the offence punishable under section 418, 423, 420, 120B, 464 of Indian Penal Code against the present petitioners. I have perused the contents of the First Information Report. The allegation made in the First Information Report is that on 28.10.2022 at 11-00 A.M. court P.C. Prathap has produced the PCR.No.222/2021 from the court. On the basis of complaint registered the Cr.No.213/2022. The complainant has filed the complaint with allegation that he was purchased the land Sy.No.58/3, measuring 0.22.08 guntas out of 2 acre 10 guntas of Rajapura Village. The present petitioners have created the documents only to cause loss to him and fabricated documents to cheat the complainant. This is the some and substance of the allegation made in the complaint. All the offences are bailable except section 420 of Indian Penal Code. As per contents of the FIR the offence under section 464 is not penal provision. The offence under section 464 of Indian

Penal Code is only definition. The offence under section 420 of Indian Penal Code is non-bailable but not punishable with death or life imprisonment. The allegation made in the complaint pertaining to the creation of the documents. The entire investigation is based on documentary evidence. There is no need of custodial interrogation. The offences under section 420 of Indian Penal Code is not punishable with death or life imprisonment and triable by judicial Magistrate first class. This court relied upon **Criminal Special Petitioner Crl. Appeal No.7281-7282/2017 Smt. Sushila Aggarwal and others V/s State (NCT of Delhi) and others.** The Hon'ble Apex Court held that bail is a rule, jail is exception. In view of principle laid down in above said judgment and the offence under section 420 of Indian Penal Code is non-bailable but not punishable with death or life imprisonment. The entire investigation is based on documentary evidence and no need of custodial interrogation. So Petitioners have made out prima facie case to grant bail under section 438 of Cr.P.C.. In view of

above said reasons this court held **point no.1 in the Affirmative.**

8. **Reasons on Point No.2** :- In view of reasons on in point no.1 I proceed to pass the following Order : -

: O R D E R :

The bail application under section 438 of Cr.P.C in Crl.Misc.No.5413/2022 and Crl.Misc.No.5416/2022 filed by petitioners are hereby allowed and in the event of their arrest in Cr.No.213/2022 of Jigani Police Station for the offences punishable under Sections 418, 120B, 464, 420, 423 of Indian Penal Code they shall released on bail on execution of personal bond of Rs. 50,000/- each with like sum of one surety with the following condition.

1. They shall not tamper prosecution witnesses.
2. They shall appear before

the Investigation officer as and when required.

3. They shall mark the attendance before the concerned police station on every fortnight on Saturday between 10-00 A.M. to 4-00 P.M.

4. The petitioners and surety shall furnish recent passport size photo and mobile number.

The above said conditions are in enforcement till filing of charge sheet or 90 days which ever is earlier.

The Original Order retained in Crl.Misc. No. 5416/2022 and a copy retained in Crl.Misc. No. 5413/2022.

(Dictated to the Stenographer, typed by her, corrected by me and then pronounced in the Open Court on **17th day of November 2022**).

Sd/-

(KARABARI RAVINDRA)

III Addl. District & Sessions Judge,
Bengaluru Rural District,
Sit at Anekal.

17.11.2022.

Orders Pronounced in the Open Court. The Operative Portion of the said Orders is as follows :

: O R D E R :

The bail application under section 438 of Cr.P.C in Crl.Misc.No.5413/2022 and Crl.Misc.No.5416/2022 filed by petitioners are hereby allowed and in the event of their arrest in Cr.No.213/2022 of Jigani Police Station for the offences punishable under Sections 418, 120B, 464, 420, 423 of Indian Penal Code they shall released on bail on execution of personal bond of Rs. 50,000/- each with like sum of one surety with the following condition.

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The above said conditions are in enforcement till filing of charge sheet or 90 days which ever is earlier.

The Original Order retained in Crl.Misc. No. 5416/2022 and a copy retained in Crl.Misc. No. 5413/2022.

(Vide my separate detailed Orders dated 17.11.2022).

(Typed as per my dictation)

(KARABARI RAVINDRA)
III Addl. District & Sessions Judge,
Bengaluru Rural District,
Sit at Anekal.

