

KABR200007282022



Presented on : 29-10-2022

Registered on : 29-10-2022

Decided on : 14-11-2022

**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 14TH DAY OF NOVEMBER 2022

Crl. Misc. No.5408/2022

BETWEEN

1. Sri. Kumar .R, S/o
Ramachandrappa, Aged about 28
years, R/at Kachanayakanahalli
Village, Hennagara Post, Jigani
Hobli, Anekal Taluk, Bangalore
District.

: Petitioner No.1 /
Accused No. 1

2. Sri. R. Gajendra Kumar, S/o Rathnamma, Aged about 27 years, R/at C/o Appayya .K., Vinayaka Nagara, Kachanayakanahalli Village, Hennagara Post, Jigani Hobli, Anekal Taluk, Bangalore District.

: Petitioner No.2 /
Accused No.2

3. Sri. Chandu .V. S/o Venkataswami, Aged about 21 years, R/at Kachanayakanahalli Village, Hennagara Post, Jigani Hobli, Anekal Taluk, Bangalore District.

: Petitioner No.3 /
Accused No.3

4. Sri. Manjunath, S/o Narayanswamy, Aged about 19 years, R/at No.2, Kachanayakanahalli Village, Hennagara Post, Jigani Hobli, Anekal Taluk, Bangalore District.

: Petitioner No.4 /
Accused No.4

5. Sri. Bharath .R., S/o Rajappa, Aged about 19 years, R/at No.46,

Shanboganahalli Village,
Bannerughatta Post, Jigani Hobli,
Anekal Taluk, Bangalore District.

: Petitioner No.5 /
Accused No.5

6. Sri. Sanjay Kumar .N.S. S/o
Nagaraja, Aged about 34 years,
R/at Near Icon,
Kachanayakanahalli Village,
Hennagara Post, Jigani Hobli,
Anekal Taluk, Bangalore District.

: Petitioner No.6 /
Accused No.6

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

AND

State of Karnataka represented
by Suryanagara Police Station.

: Respondent.

(Represented by the Learned
Public Prosecutor).

: O R D E R S:

The Petitioners have filed the bail application
under section 438 of Cr.P.C. with an request to grant

Anticipatory Bail in Cr.No. 313/2022 of Suryanagara Police Station for the offences punishable under section 143, 147, 323, 341, 504, 506 read with 149 of Indian Penal Code and section 25 of Indian Arms Act.

2. The brief facts of the case is that the complainant has filed the complaint with allegation that he is working in Vekapit company and he used to go to the company on every day on bike KA-51-EY-7582 at 7-30 P.M. he was returning to the house along with Charan near the gas office Petitioners came on bike bearing no.KA.01-GM-4013, KA-51-HF-3175 and they picked up the quarrel with the previous enmity and they have wrongfully restrained. They have followed their bike and they have surrounded them and abused them in filthy language and Petitioner no.3 was having the long and he was given long in the hand of Petitioner no.1 and other have instigated Petitioner no.1 to assault and to

kill them. Further Petitioner no.1 disclose that he has already finished the one person and he has threatened to his life. So as such the allegation made in the complaint on the basis of complaint registered the Cr.No.313/2022 for the offence punishable under section 143, 147, 341, 323, 504, 506 read with 149 of Indian Penal Code and section 25 of Arms Act. So there is apprehension of arrest and applied for anticipatory bail on the following grounds.

3. Petitioners have not committed any offence and they have been falsely involved. All the family members are depend upon them. All the offence are bailable except section 25 of Indian Arms Act. Indian Arms attract only use of gun. The allegation made in the complaint there was long. So the allegation made in the complaint does not attract section 25 of Arms Act. So Petitioners have been falsely involved. So they are ready to abide any

condition imposed by this court and requested to allow the bail application.

4. The Learned Public Prosecutor has filed objection, on the ground that on the basis of complaint Suryanagara police station has registered the Cr.No.313/2022 for the offences punishable under section 143, 147, 323, 341, 504, 506 read with 149 of Indian Penal Code and section 25 of Arms Act. Further contended that as per averments made in the complaint. Further contended that still investigation is not completed. In case of released on bail there is chance of tampering prosecution witnesses, causing hindrance in the investigation and requested for rejection.

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

1. Whether the Petitioners have made out the prima facie case to grant the Anticipatory Bail under section 438 of Cr.P.C. and petition is fit to be allowed.?

2. What order?

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

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

7. **Reasons for Point No.1:** - I have perusal averments made in the bail application, its objection and police papers. The Suryanagara Police Station has registered the Cr.No.313/2022 for the offences under section 143, 147, 323, 341, 504, 506 read with 149 of Indian Penal Code and section 25 of Arms Act. All the offence are bailable except section 25 of Arms Act. The offence under section 25 of Arms Act is not punishable with death or life imprisonment and triable by judicial

Magistrate first class. So I am of opinion that the allegation made in the complaint Petitioner no.3 was holding the long and same was delivered to the Petitioner no.1 to commit the offence. This is the allegation made in the complaint. So I am of opinion that the allegation made in the complaint can be decide at the time of trial. 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 the offence under section 25 of Arms Act is not punishable with death or life imprisonment and triable by judicial Magistrate first class. So the 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 filed by the petitioners is hereby allowed and in the event of their arrest in Cr.No. 313/2022 of Suryanagara police station for the offence punishable under section 143, 147, 323, 341, 504, 506 read with 149 of Indian Penal Code and section 25 of Arms Act 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 the recent passport size photo with mobile number.

The above said conditions are in enforcement for a period of 90 days or till filing of charge sheet whichever is earlier.

(Dictated to the Stenographer, typed by her, corrected by me and then pronounced in the Open Court on **14th day of November 2022**).

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

14.11.2022.

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 filed by the petitioners is hereby allowed and in the event of their arrest in Cr.No. 313/2022 of Suryanagara police station for the offence punishable under section 143, 147, 323, 341, 504, 506 read with 149 of Indian Penal Code and section 25 of Arms Act 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.

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4. The Petitioners and surety shall furnish the recent passport size photo with mobile number.

The above said conditions are in enforcement for a period of 90 days or till filing of charge sheet whichever is earlier.

(Vide my separate detailed Orders dated 14.11.2022).

(Typed as per my dictation)

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