



**IN THE COURT OF THE II ADDL. DISTRICT AND
SESSIONS JUDGE AT KOLAR**

PRESENT

Sri. MAYANNA B.L., B.A., LL.B.,
II Additional District & Sessions Judge, Kolar.

DATED THIS THE 6th DAY OF AUGUST, 2026

S.C. No.158/2023

COMPLAINANT : **State of Karnataka,**
Rep. By Sub-Inspector of Police,
Through Gulpet Police Station,
Kolar.

(Rep. by Learned Public
Prosecutor.)

V/S

ACCUSED NO. **1. Fayaz Khan @ Fayaz Ahamed,**
S/o. Riyaz Khan,
Aged about 37 years,
R/at Near Bilal Masjid,
Haveli Mohalla,
Ammavaripete,
Kolar.

(Accused by DLADC., Advocate)

**ORDERS ON APPLICATION FILED ON BEHALF OF
ACCUSED NO.1 UNDER SECTION 439 OF CR.P.C.,**

The Accused No.1 has filed the bail application under Section 439 of Cr.P.C., seeking regular bail for the offences punishable under Section 302, 307, 114 read with Section 34 of IPC.

2. The Accused No.1 has contended that he is in judicial custody from past three years. He is ill-health and is suffering from stomach pain, kidney stone. The Doctor has advised for operation and remove the kidney stones, otherwise health condition is very serious. He is having movable and immovable properties in the locality. The alleged offences are not punishable with death or imprisonment for life. The Accused No.1 undertakes that he is ready and willing to appear before the Court. He will not hamper or tamper any witnesses and also he is ready to abide by the conditions and hence, prays to allow the application.

3. The learned Public Prosecutor has filed objections reiterating the charge sheet averments and contended that, the bail application is not maintainable, either in law or on facts. The Accused No.1 has

committed the alleged offences. There is prima facie material evidence against this Accused in the final report. The alleged offences are punishable with death or imprisonment for life. The alleged offences are heinous in nature. The IO has conducted spot mahazar and seized material objects. The IO has conducted inquest mahazar, recorded statements of complainant, the eyewitness and other witnesses. It is further contended that, the Accused No.1 has committed the murder and same is heinous crime. Though the police have filed the charge sheet, all the witnesses are not examined. At this stage, if the Accused No.1 is enlarged on bail, there is every possibility of threatening the witnesses, hampering the trial and tampering the evidence. Hence the Accused No.1 is not entitled for release on bail and prays to dismiss the bail application.

3.1) The learned Public Prosecutor has relied on the following citations in the statements of objection:

- 1) *1992(1) Crimes 343, 345 between Satish Jagadishchandra Mistry Vs State of Gujarat, 345 (Guj).*
- 2) *1981 CrLJ 398 (JK) Meharaj Uddin Vs State.*

3) (2002) 95 DLT 652:2002 CrLj 341 (343)
(Del) between Sidharath Vashist Vs State.

4) (1991) CrLj 3205, 3207 (Kant) between
Narashimha Murthy V/s State.

4. Heard the learned counsel for the Accused
No.1 and the learned Public Prosecutor.

5. The points that arises for consideration are: -

1. Whether the Accused No.1 is entitled to
be enlarged on bail under Section 439 of
Cr.P.C.?

2. What Order?

6. The answer to the above points as follows;

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

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

REASONS

7. **POINT NO.1**:- Perused the bail application,
objections filed by the P.P., and also perused the charge
sheet material. From the perusal of the charge sheet
material, the Gulpet Police have filed the charge sheet
against the Accused persons for the above said offences.
The allegation that CW-4/Smt.Husna @ Husna Taj, who

is daughter of the CW.5, got married to deceased Taj Patan @ Goru and CW-6/Tajunnisa got married to Accused No.1. There was difference between CW-6 and Accused No.1 and there was no compatibility between each other in their marital life, due to which, the CW-6 used to go to her sister's house and in this regard, there were many panchayaths were held. Such being, about 4 months back, the CW-6 left her marital home and went to the house of her sister CW-4/Husna, but she did not return back. Being frustrated by the same, the Accused No.1 and Accused No.2, the grand mother of Accused No.1 thought that deceased Tajpatan is the cause and instigation to CW-6 to leave her marital home and decided to kill him. Accordingly, on 20.03.2023, the Accused No.1 and 2, with common intention to murder Tajpatan, called him to their house and at about 3:00 p.m., when the deceased Tajpatan came to their house along with the CW.1 and CW.2, the Accused No.1, with an intention to murder the deceased Tajpatan as well as CW-2, has stabbed with a knife on the right side stomach of Tajpatan and caused bleeding injuries, resulting in the death of Tajpatan, when CW-2 tried to rescue Tajpatan, the Accused No.1 has also stabbed on his left side

stomach and caused bleeding injuries. Accordingly, complaint was filed.

8. The learned counsel for the Accused No.1 submits that the police have arrested the Accused on 21.03.2023 and from the date of arrest, he is in judicial custody. The police have investigated the matter and have submitted the charge sheet and hence, the Accused No.1 is not required for any interrogation. The learned counsel further submits that the CW.1 and 2 are material witnesses and they have been examined.

9. The learned PP submits that though the CW.1 and 2 have been examined, the CW.3 and CW.4 are also eyewitnesses to the alleged incident and CW.8 to 11 are the witnesses to the mahazars, however, they are not yet examined. It is relevant to mention here that though charge sheet is filed and has examined the Complainant as well as injured witness, other material witnesses not examined. It is pertinent to mention that the doctor, who has conducted Post Mortem, has given opinion that death is due to stab injury. Moreover, the police have seized the knife through the Accused No.1 under the panchanama.

10. It is further relevant to mention here that earlier to this, the Accused No.1 had already filed bail application and said bail application came to be rejected on 24.06.2025 and as such, the present bail application is successive bail application. However, there is no changed circumstances in the present application and hence, the application is liable to be rejected.

11. Though investigation is completed and charge sheet is filed, from the perusal of charge sheet material, there is prima facie that the Accused No.1 has committed the alleged offences. Further, the offence under Section 302 of IPC is serious in nature and all the material witnesses are not yet examined. As such, at this stage, if the Accused No.1 is released on bail, there is chance of threatening the witnesses of Prosecution and also chances of tampering the evidence, cannot be ruled out. Therefore, by keeping in mind the nature of offence and allegation made against the Accused No.1, this Court is of the opinion that it is necessary to reject the bail application of Accused No.1. On these observations, this Court proceeds to hold the above Point No.1 in the **Negative.**

12. **POINT NO.2:-** For the reasons, discussed in the above point No.1, this Court proceeds to pass the following:

O R D E R

The bail Application filed by the Accused No.1 under Section 439 of Cr.P.C., is hereby rejected.

(Dictated to Stenographer Grade-I directly on Computer, computerized by her revised, corrected by me and then pronounced in the open Court on this the **6th day of August, 2026**)

(MAYANNA B.L.)
II Addl. District & Sessions Judge,
Kolar.