

IN THE COURT OF IV ADDL. DISTRICT & SESSIONS JUDGE,
AT MANDYA

Dated this day the 28th December, 2020

P R E S E N T

SMT.J.P.ARCHANA, B.Com., LL.B.
IV Addl. District & Sessions Judge,
Mandya.

S. C. No.54/2020

Complainant : State by;
Kesthur Police Station.
[Rep. by learned Public Prosecutor]

V/s

Accused : 1. Abhishek @ Abhi S/o Late
Dasappa, Aged about 26 years,

2. Hanumantha S/o Nagaiah, Aged
about 31 years,

3. Dhanaraj S/o Gangappa, Aged
about 25 years,

4. Vikas @ Vicky S/o Venkatesh,
Aged about 18 years,

5. Akshay @ Akshay Kumar.D S/o
Late Dasappa, Aged about 24
years,

6. Shashi Kumar.M S/o Maarappa,
Aged about 23 years,

All are R/o Vaddara Doddi Village,
Athagur Hobli, Maddur Taluk,
Mandya District.

[Rep. by Sri.H.Basavaiah-Adv]

**ORDERS ON THE BAIL APPLICATION FILED BY THE
ACCUSED NO.1 TO 6 UNDER SECTION 439 OF Cr.P.C.**

Accused No.1 to 6 filed bail application under section 439 of Cr.PC praying to enlarge them on bail for the offences punishable under sections 143, 147, 148, 341, 114, 307, 302,120B r/w 149 of IPC.

2. The brief facts of the prosecution is that:

One Raghu B S/o Boraiah lodged first information that he has got three sisters and one brother by name Rakesh. On 27.06.2019 at about 9.30 p.m. he was at his house, his younger brother deceased Rakesh along with one Manu had gone to Machanahalli village to buy cigarettes. His brother did not return to home that night. On 28.06.2019 at about 6.00 a.m he got the information that somebody had murdered his

brother Rakesh in Vaddaradoddi village at Maddur. He immediately rushed to the spot and found that his brother Rakesh was lying dead on the road situated in front of the house of one Krishnappa. He noticed that his brother was assaulted with some weapon over his neck, chest and other parts of the body. Hence, he lodged information before the Respondent police to find the culprits who killed his brother Rakesh. After filing of the said information, the Respondent police took up the investigation. During the investigation one Manu of Koranagere Village and Abhishek @ Nanja voluntarily appeared before the Respondent Police and gave statements stating that on 27.06.2019 the deceased Rakesh, Kariya and they were going to Vaddaradoddi Village from Nidaghatta Village. Rakesh and Kariya were going on one motorbike and they were going in another motorbike. Their bike developed some snag, hence they lagged behind. Deceased Rakesh and Kariya went ahead in their bike. After correcting the snag in their bike, they followed Rakesh and Kariya and all of them went to Vaddaradoddi Village. When they reached Vaddaradoddi village the accused persons assaulted the

deceased with the club, rod and stone. At that time Kariya fled from the spot. When they went near the spot, Akshaya assaulted Manu with the rod over his legs and Abhishek assaulted Raki over his head with the long and caused grievous injuries to them. Thereafter police apprehended the accused persons. Hence, he lodged first information to take action against the accused persons.

3. The learned Public Prosecutor files objections to this application reiterating the complaint averments.

4. Heard the arguments on both sides.

5. Perused the records.

6. The point that arises for my consideration is as follows;

“Whether the accused No.1 to 6 have made out a ground to enlarge them on bail?”

7. My answer to the above point is in the 'Affirmative' for the following reasons.

REASONS

8. Prosecution case is that; one Raghu B S/o Boraiah lodged first information that he has got three sisters and one brother by name Rakesh. On 27.06.2019 at about 9.30 p.m. he was at his house, his younger brother deceased Rakesh along with one Manu had gone to Machanahalli village to buy cigarettes. His brother did not return to home that night. On 28.06.2019 at about 6.00 a.m he got the information that somebody had murdered his brother Rakesh in Vaddaradoddi village at Maddur. He immediately rushed to the spot and found that his brother Rakesh was lying dead on the road situated in front of the house of one Krishnappa. He noticed that his brother was assaulted with some weapon over his neck, chest and other parts of the body. Hence, he lodged information before the Respondent police to find the culprits who killed his brother Rakesh. After filing of the said information, the Respondent police took up the investigation.

During the investigation one Manu of Koranagere Village and Abhishek @ Nanja voluntarily appeared before the Respondent Police and gave statements stating that on 27.06.2019 the deceased Rakesh, Kariya and they were going to Vaddaradoddi Village from Nidaghatta Village. Rakesh and Kariya were going on one motorbike and they were going in another motorbike. Their bike developed some snag, hence they lagged behind. Deceased Rakesh and Kariya went ahead in their bike. After correcting the snag in their bike, they followed Rakesh and Kariya and all of them went to Vaddaradoddi Village. When they reached Vaddaradoddi village the accused persons assaulted the deceased with the club, rod and stone. At that time Kariya fled from the spot. When they went near the spot, Akshaya assaulted Manu with the rod over his legs and Abhishek assaulted Raki over his head with the long and caused grievous injuries to them. Thereafter police apprehended the accused persons. Hence, he lodged first information to take action against the accused persons.

9. The accused No.1 to 6 prays for their release on the following grounds:

They are innocents and have not committed any offences as alleged by the complainant. They are coming from respectable family having deep roots in the society and law abiding citizens and they are having good regard for law and moral. A false complaint lodged against them. They are not involved in the alleged offences. Investigation is completed and charge sheet is filed. They are the permanent residents of the address as shown in the cause-title Ravani Village, Malavalli Taluk, Mandya District. The accused No.1 to 6 have already been granted bail in Cri.Misc.No.942/2019, 861/2019, 866/2019, 921/2019 and 793/2019 on the file of V Addl. District and Sessions Judge, Mandya. They are ready to abide by any terms and conditions to be imposed by this court. On these grounds, they pray for enlarging them on bail.

10. The learned Public Prosecutor filed objections wherein it is contended that there is a prima-facie case

against the accused persons. If the accused are released on bail, there are chances of they threatening the witnesses, destroying evidence, abscond permanently and cause delay in disposal of the matter. Hence prayed to reject the bail petition.

11. Learned counsel for the accused No.1 to 6 argued that they have been falsely implicated. They have not committed any offences. They have never misused the liberty given to them by the committal court. Further they are already granted bail in Cri.Misc.No.942/2019, 861/2019, 866/2019, 921/2019 and 793/2019 on the file of V Addl. District and Sessions Judge, Mandya. The apprehension of the prosecution can be resolved by imposing stringent conditions on the accused. Accordingly, I answer the above point in the Affirmative and proceed to pass the following order.

ORDER

Application filed by the accused No.1 to 6 under section 439 of Cr.PC is allowed.

The accused No.1 to 6 are ordered to be enlarged on bail in the above case on executing their personal bond in a sum of Rs.1,00,000/- each along with one surety for the likesum to the satisfaction of this court on the following conditions;

1. Accused No.1 to 6 shall appear before this court regularly.
2. They shall not hold out threats to the prosecution witnesses or lure them in any manner.
3. They shall not involve in any criminal activities.
4. They should furnish their surety and surety's identity proof.

If the accused No.1 to 6 violates anyone of the conditions, the prosecution is at liberty to seek cancellation of bail.

[Directly dictated to the Stenographer on computer.
Corrected and then pronounced by me in the open Court
dated this day the 28th December, 2020]

[J.P.ARCHANA.]

IV Addl. Dist. & Sessions Judge,
Mandya.

Order pronounced in open court
(Vide separate order)

ORDER

Application filed by the accused No.1 to 6 under section 439 of Cr.PC is allowed.

The accused No.1 to 6 are ordered to be enlarged on bail in the above case on executing their personal bond in a sum of Rs.1,00,000/- each along with one surety for the likesum to the satisfaction of this court on the following conditions;

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3. They shall not involve in any criminal activities.
4. They should furnish their surety and surety's identity proof.

If the accused No.1 to 6 violates anyone of the conditions, the prosecution is at liberty to seek cancellation of bail.

IV ASJ,
Mandya.

2. Brief facts that led to this petition are under:

3. Now, the petitioner who is accused of commission of offences alleged, seeking his release on bail, on the following amongst other grounds: He is innocent of the offences alleged against him and he has been falsely implicated in the case. The Petitioner has got nothing to do with the death of the deceased or assault on witnesses in the case. The petitioner hail from a respectable family. The Petitioner is

youngster, if he is kept in the midst of hard core criminals his future will be at stake. The accused person was not named in the FIR and he has been added later on. There is no prima-facie case to show that the petitioner committed the offence as alleged by the prosecution. He is ready to abide by any terms and conditions that may be imposed by this court while granting bail.

4. The bail petition is opposed by the learned Public Prosecutor by filing objections. It is contended that the petitioner along with the accused persons have committed grievous offence of murder of the deceased and as such, he is not entitled for bail. There is a prima-facie case against him.

Cri.Misc. 942/2019 If the petitioner is released on bail, there are chances of giving threat to witnesses, destroying evidence, absconding permanently and delay the disposal of the matter. Hence, prayed to reject the petition. 5. Heard both the sides. 6. The following points arose for my determination: Point No.1: Whether the petitioner has made out sufficient grounds for grant of bail? Point No.2: What order? 7. My findings to above points are: Point No. 1: In affirmative, Point No. 2: As per final order, for the following: REASONS 8. POINT NO.1: The petitioner along with petition has produced certified copy of order sheet in Cr. No. 74/2019, FIR and remand application. 9. The learned counsel for petitioner urged that the Petitioner has not committed any offence as alleged by the

prosecutionand he has been falsely implicated into the case. Thepetitioner is ready to abide by any terms and conditions thatmay be imposed by this Court. On the other hand, the learned

Cri.Misc. 942/20195P.P. submitted that there is a prima-facie case against thePetitioner and if the bail is granted, there are chances ofPetitioner giving threat to witnesses, destroying evidence,abscond permanently and delay investigation process. 10. Perusal of materials on record reveal that initially in theFIR the name of the Petitioner herein was not included.During the investigation, based on the statements given byone Manu S/o Govindaraju and Abhishek @ Nanja S/o LateNanjundaiah, the present petitioner name was added. Theallegation made against the Petitioner is that he along withaccused No.2 N.Hanumantha, accused No.3 Dhanaraj andaccused No.4 Vikash @Vikki assaulted the deceased withclub, rod and stone and murdered him. It is pertinent to notehere that the name of the Petitioner was added based on thestatements made by some of the witnesses who voluntarilyappeared before the police and gave statement. In theirstatement no specific overt act by the petitioner herein arementioned. However, the allegations made against thepetitioner herein have to be proved at full-fledged trial.Considering the facts and circumstances of the case, I am ofthe view that further detention of the petitioner in judicialcustody is not necessary and his bail application can beconsidered. The petitioner is permanent resident ofVaddaradoddi Village, Maddur Taluk. Apprehension ofprosecution can be met by imposing stringent conditions

andby obtaining sufficient surety to the satisfaction of the Court.

Cri.Misc. 942/20196Accordingly, point under consideration is answered inaffirmative.Note:- The above observation made by this Court during the courseof this order is only for the limited purpose of disposal of thispetition and the same shall not be considered as opinion of theCourt on merits of the case. 11. POINT NO.2:In view of my discussions and finding toabove point, I proceed to pass the following:ORDERPetition filed by petitioner/accused No.1u/s.439 of Cr.P.C. is hereby allowed. Consequently, the petitioner/accused No. 1is ordered to be released on bail inCr.No.74/2019 of Kesthur Police Station on hisexecuting personal bond for Rs.1,00,000/- withone surety for like sum to the satisfaction of theconcerned court subject to the conditions that:1. The Petitioner shall appear before theInvestigating officer as and when called uponand extend his fullest co-operation in theinvestigation.2. He shall mark his attendance in the concernedPolice station on every Sunday between 8.00

Cri.Misc. 942/20197a.m. to 5.00 p.m. till filing of final report.3. The petitioner shall not give threat to theprosecution witnesses in any manner.4. He shall not indulge in similar offences in anymanner.5. He shall appear before the concerned court onall the dates of hearing unless prevented byany genuine cause and exempted by the Court.6. He shall not leave the jurisdiction of theconcerned Court without prior permission tilldisposal of matter.