

KAMS010005902023



**IN THE COURT OF I ADDL.DIST. & SESSIONS JUDGE AT
MYSURU**

Dated this the 17th day of April 2023

**Present: Smt.Saraswati V. Kosandar, B.Com., LL.M.
I Addl. Dist. & Sessions Judge
Mysuru**

: SC./34/2023 :

Complainant : State by Udayagiri Police Station.

V/s.

Accused : A4. Krishna @ Kuvya S/o Mahadeva,
aged about 23 years, R/o No.317,
Near Swapna Studio, Harischandra
Ghat Road, Tent Circle, Mysuru.
A5. Rangaswamy @ Bonda @ Swamy
S/o Govinda, aged about 24 years,
R/o No.668, 3rd Cross, Behind
Basavanagudi, Bhatru Hotel Road,
Kyathamaranahalli, Mysuru City.

(By Sri A.K.Vaman, Adv.)

:: ORDER ON PETITION FILED U/S.439 OF CR.P.C.::

The instant petition is filed U/s.439(2) of Cr.P.C. seeking
an order to modify the condition as laid down in the order dated

29.03.2023 passed in this case directing the sureties to furnish title deeds of their properties, by allowing this application.

2. In the petition it is stated that the complainant police have registered the case against the accused persons U/s.143, 147, 341, 323, 324, 326, 307 and 302 R/w.Sec.149 of IPC. The accused No.4 and 5 filed bail application before this court and this Court allowed said application by order dt:29.03.2023 and granted bail to the accused persons by imposing certain conditions. The accused No.4 and 5 could not comply with the order of this Court as they could not arrange the sureties with title deeds. Therefore, it is most prayed to relax the condition of producing the title deed of the properties to be produced by the sureties on behalf of accused No.4 and 5 in the interest of justice.

3. After receipt of notice of the petition, the learned Public Prosecutor orally objected and prayed to reject the petition.

4. Heard the learned counsel for accused No.4 and 5 and the learned Public Prosecutor and perused the material on record.

5. The points that arise for my consideration and determination are as under:

- i) Whether the accused No.4 and 5 have made out sufficient grounds to allow the petition?
- ii) What order?

6. My findings to the above points are as under:

Point No.: 1) In the Affirmative

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

: R E A S O N S :

7. **Point No:1:** The above petition is filed on behalf of the accused No.4 and 5 U/s.439 of Cr.P.C. seeking an order to modify the condition imposed by this Court directing the sureties to furnish title deeds of their property compulsorily.

8. The learned counsel for the accused No.4 and 5 submitted that the accused No.4 and 5 are in judicial custody since 03.09.2022. Though they are granted bail as per order dt:29.03.2023 passed by this Court, they are not released for the reason that their family members are unable to arrange sureties with title deeds. It is submitted that the sureties having title deeds of their properties are not intending to furnish title deeds before the Court and therefore, unless the condition regarding furnishing of title deeds is relaxed the accused No.4 and 5 are not able to enjoy the fruits of the bail order and hence prayed to allow the application.

9. I have perused the order dated 29.03.2023 passed by this Court. As per said order this Court has granted bail to the

accused No.4 and 5 on executing personal bond in a sum of Rs.1 lakh each with two sureties for the like sum with a condition that the sureties shall furnish title deeds of their properties compulsorily.

10. It is pertinent to note that the courts having power to grant bail also have power to set aside or modify any condition which it may consider necessary in the interest of justice.

11. As submitted by the learned Public Prosecutor the allegations made against the petitioner is serious in nature, however, this Court by considering facts and circumstances and stage of the investigation has already granted bail. As noted in the order, nothing is produced to show that the accused No.4 and 5 have any criminal antecedents. It is not in dispute that the accused No.4 and 5 are from Mysuru city and they are in J.C since 03.09.2022. Therefore considering the facts and circumstances, stage of the investigation and considering the submissions made by the learned Counsel for accused No.4 and 5 and learned Public Prosecutor, I am of the opinion that the condition regarding production of title deeds of the properties is relaxed, it will meet the ends of justice. In the result I answer point for consideration in the "**Affirmative**".

12. **Point No.2:** In view of my answer on point No.1 and for the foregoing reasons, I proceed to pass the following:

: O R D E R :

The petition filed U/s.439(2) of Cr.P.C. by the accused No.4 and 5 is hereby allowed.

Condition imposed by this Court in order dated 29.03.2023 directing the sureties of accused No.4 and 5 to furnish the title deeds of their property compulsorily is modified as under:-

The accused No.4 and 5 shall execute personal bond in a sum of Rs.1,00,000/- with two sureties for the like sum to the satisfaction of the Court by furnishing their I.D. proof.

(Order directly dictated to the Stenographer on computer, computerized copy revised, corrected and then pronounced by me in the Open Court on this the 17th day of April 2023)

**(Saraswati V. Kosandar)
I Addl. Dist. & Sessions Judge,
Mysuru.**