

KAMS010015192023



SC/74/2023

**IN THE COURT OF THE IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE, MYSURU**

Dated this the **11th day of November, 2024**

:: PRESENT ::

Sri Mallanagouda, B.Com., LL.M.,
IV Addl. District & Sessions Judge,
Mysuru.

SC/74/2023

Complainant :

The State Rep. by
Udayagiri Police Station,
Mysuru.

[By learned **Public Prosecutor**]

V/s

Accused No.2 :

Sri Vijay @ Soppu
S/o Prasashuram,
Aged about 20 years,
Residing at
D.No.6,
Behind Basavanagudi,
Near Indian Bakery,
Kyathamaranahalli,
Mysuru City.

[By Sri **L.N**- Advocate]

ORDER ON BAIL APPLICATION FILED BY ACCUSED No.2
U/Sec.439 of Cr.P.C.

This is the case in which the Udayagiri Police have filed Charge-Sheet against the Accused No.2 and others for the offences punishable U/Sec. 143, 147, 148, 341, 323, 324, 307 and 504 R/w.Sec.149 of IPC.,

2. Initially, charge-sheet was filed against Accused No.1 to 5, but as Accused No.2 was released on bail, as he remained absent, the case against the Accused No.2 was split up by learned JMFC., and he was arrested and committed to this Court. After committal also the Accused No.2 was released on bail, but when the matter was posted for FDT as Accused No.2 again remained absent, NBW was issued against him and he was arrested on 17.10.2024 and now the Accused No.2 has filed the present Application U/Sec.439 of Cr.P.C., in which he has contended as under:-

Accused No.2 is innocent and law abiding citizen and he has got deep roots in the society and he has not committed the offences alleged against him, he has aged parents, he is the only earning member of his family, his family members are totally depending upon him, if he is kept in judicial custody during pendency of the trial great hardship will be caused not only to the Petitioner, but also for his family members. He has got movable and immovable properties, the offences alleged against the Petitioner are not punishable with death or imprisonment for life, he is ready to furnish surety, undertakes to appear before the Court on all the dates and

undertakes not to tamper with the prosecution witnesses, not to leave the jurisdiction of the Court without prior permission.

3. To this Application the learned Public Prosecutor has filed objection stating that there is prima-facie material to show that the Accused No.2 has committed the offences punishable U/Sec. 143, 147, 148, 341, 323, 324, 307 and 504 R/w.Sec.149 of IPC., already the Accused was released on bail, as he remained absent NBW was issued against him, he was arrested, if once again he is granted bail there is every possibility of absconding and tampering the prosecution witnesses. Hence, the Accused No.2 is not entitled for bail.

4. Heard the arguments. Perused the entire record and the decisions.

5. On the basis of the above reasoning, the only point that arises for my consideration is;

(1) Whether the Accused No.2 has made out sufficient grounds for grant of bail?

(2) What Order?

6. My findings on the above points are as hereunder;

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

Point No.2: **As per final order**

for the following;

:: REASONS ::

7. **POINT No.1:-** During arguments the learned Counsel for the Accused No.2 has argued stating that as the Accused No.2 is innocent and he is law-abiding citizen, he is permanent resident of Mysuru, he has got parents who are totally depending upon him, hence, if the Accused No.2 is kept in judicial custody till completion of the trial, not only Accused No.2 also his parents are going to suffer a lot, Accused No.2 undertakes to abide by the conditions that may be imposed by the Court, hence, it is necessary to release him on bail.

8. On the other hand, the learned Public Prosecutor has argued stating that as the Accused is already absconded and he has been arrested by issuing NBW, once again if he is released on bail, there is every possibility of causing some more delay in conducting the trial.

9. On perusal of materials on record and arguments of learned Counsel for the Accused and learned Public Prosecutor it appears to me that though the offences alleged against the Accused No.2 are non-bailable, same are not punishable with death or imprisonment for life and prior to 30.08.2024 the Accused No.2 was regularly appearing before the Court, hence, it is proper and necessary to release the Accused No.2 on bail by imposing conditions. Hence, the **Point No.1 is answered in the Affirmative.**

10. **Point No.2**:- In view of above discussion, I proceed to pass the following;

ORDER

The Bail Petition filed U/Sec.439 of Cr.P.C., by the Accused No.2 is hereby **Allowed** and he is ordered to be released on bail on the following conditions:-

1. The Accused No.2 shall execute personal bond for Rs.1,00,000/- and furnish fresh surety for like sum.
2. The Accused No.2 shall not tamper the prosecution witnesses directly or indirectly.
3. The Accused No.2 shall attend the Court on all the dates of hearing without fail.
4. The Accused No.2 shall co-operate for early disposal of the matter.

[Dictated to the Stenographer directly on computer, corrected, and signed by me and then pronounced in the Open Court, on this the **11th day of November, 2024**]

(MALLANAGOUDA)

IV Addl. District & Sessions Judge,
Mysuru.

