

KAMS010015192023



**IN THE COURT OF THE IV ADDL. DISTRICT & SESSIONS
JUDGE: MYSURU.**

Dated this the 10th day of June 2025

PRESENT

**Sri P.J.Somashekar, B.A.,LL.M.,
IV ADDL. DISTRICT & SESSIONS JUDGE:
MYSURU.**

SC No. 74/2023

Complainant: State by Udayagiri Police
Station, Mysuru.

[By Public Prosecutor]

V/s

Accused No.2: Vijay @ Soppu,
S/o Parashuram,
Aged about 20 years,
R/at No.6, Behind
Basavanagudi, Near Indian
Bekary, Kyathamaraiahalli,
Mysuru District.

[By Sri. L.N., Advocate]

**ORDER ON BAIL APPLICATION FILED
U/SEC. 439 OF CR.P.C**

This is a bail application U/s.439 of Cr.P.C., filed by the

accused No.2 and sought for release him on bail in Crime No.359/2018 in S.C.No.74/2023 of Udayagiri Police Station, for the offence Punishable under Sec. 143, 147, 148, 341, 323, 324, 307, 504, 506 R/w Sec.149 of IPC.

2. Nutshell of the application are as under :

The learned counsel for the accused No.2 files instant bail application and sought for release him on bail stating that, the complainant police have registered the case against the accused for the offences punishable under Sec. 143, 147, 148, 341, 323, 324, 307, 504, 506 R/w Sec. 149 of IPC and accused No.2 is the innocent and law abiding citizen has not at all committed any offences as alleged by the complainant police, but falsely implicated only with an intention to harass the accused No.2 and the accused No.2 has been appeared before the Court and got obtained the bail because of non-appearance before the Court NBW was issued and same was executed and produced before the Court and he has been remanded to judicial custody because of ill health could not

appear before the Court. Therefore, it is necessary to release the accused No.2 on bail since the accused No.2 is in the judicial custody from 13.05.2025, if the accused No.2 is not released on bail not only the accused No.2, but also his family members will be put to irreparable loss and injustice since the accused No.2 is the only earning member to his family.

3. The learned counsel for the accused No.2 in the bail petition has further alleged that, the accused No.2 is the permanent resident of Mysuru if his detention has been continued the accused No.2 will be put to great hardship and ready to furnish the surety to the satisfaction of the Court and ready to abide by the conditions which may be imposed by this conditions and undertakes to appear before the Court on all the hearing dates without fail, though offences which alleged against the accused are non-bailable in nature same are not punishable either life nor death and prays for allow the bail application.

4. The learned Public Prosecutor filed objection to the

bail application which filed by the accused No.2 stating that, the bail petition which filed is not maintainable either in law or on facts and the Udayagiri Police have registered the case against the accused No.2 in which clearly reflects the accused and the CW.1 are known to each other and since beginning they took up the quarrel in between them in respect of the small issues as a result there is an ill will between them on 14.11.2018 at about 10.00 p.m., the accused No.2 and along with other accused and also one juvenile formed the unlawful assembly in front of Huliyyamma Bar, Kyathamaranahalli Main road, at that time CW.1 and 2 were came by walk the accused persons were dashed against the CW.1 for which CW.1 has questioned the same and the accused Nos.1 and 2 were abused in filthy words and threatened to take away his life and accused Nos.4 and 5 were holding the CW.1 very tightly and assaulted on his face, mouth and all over the body and the accused No.1 with an intention to commit murder of the CW.1 assaulted by means of club on his head as a result has sustained the head injury and the accused No.2 assaulted

the CW.1 by means of stone on his head and accused No.3 and juvenile were kicked the CW.1 in their legs, thereby case has been registered not only registered against the accused No.2 but also other accused persons. So, the materials placed on record reflects the accused No.2 and other accused persons were formed the unlawful assembly with an intention to kill the CW.1 were assaulted by means of club and stone on his head, thereby the accused No.2 is not entitled the bail as sought for and the I.O is already conducted the investigation and filed the charge-sheet and originally case was came to be registered in S.C No.328/2022 and the accused No.2 was absconding from the date of incident, thereby split up charge-sheet has been filed against the 2nd accused and accused No.2 has been arrested and produced before the Court who is in the judicial custody, if the bail application is allowed, there is a chances of absconding from the jurisdiction of the Court and prays for reject the bail petition.

5. Heard arguments on both side.
6. The points that arise for Court consideration are:
 1. Whether the accused No.2 is entitle the bail as sought for?
 2. What Order?
7. The findings of this court to the aforesaid points is:

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

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

REASONS

8. POINT No.1:- Before embarking on point No.1 it is just necessary to narrate the gist of the case for the proper appreciation of the point No.1 as the complainant namely P. Ravi S/o Late Puttaraju, 27 years, resident of No.115/1, Doddagaradi Road, A.K Colony, Kyathamaranahalli stating that, who is residing in the above said address along with mother, brother and others by doing plumbing work, about 17 years back his father was passed away and every day he used to attend the work from his house and returned back to his house to 6.00 p.m., and he know the Mahendra @ Benki,

Vijay @ Soppu, Mowlysab, Ooda, Giddu and Marigudi who are the resident of Kyathamaranahalli Village since beginning there is a dispute between them in connection of small issue because of that reason they developed the ill will. On 14.11.2018 at about 10.00 p.m., himself and Puneeth after recharging the mobile were proceeding towards their village side when they were reached in front of Hulliyamma bar on Kyathamaranahalli Village Mahendra @ Benki, Vijay @ Soppu, Mowlysab, Ooda, Giddu and Marigudi were shouting on the road by pushing each other when fallen them for which they questioned the same that is a reason why Mahendra @ Benki, Vijay @ Soppu abused them in filthy words and threatened them to take away their lives and with an intention to kill them one Ooda and Giddu were holding him very tightly and assaulted in their hands on his face, mouth, all over the body and one Mahendra @ Benki with an intention to kill him assaulted by means of club on his head for 2 to 3 times as a result sustained the blood injury Vijay @ Soppu assaulted by means of stone on his head and one Mowlysab and Marigudi

kicked them in their leg and one Puneeth, Sandeep and Kumar were rescued him from their clutches and took him to K.R.Hospital for treatment and the said persons with an intention to kill him have took up the quarrel abused in filthy words and assaulted by means of club and stone and abused in filthy words. Thereby, case was came to be registered against the accused persons and the I.O after conducting the investigation filed the charge-sheet though initially case was came to be registered as S.C No.328/2022 against all the accused persons because of absconding of the accused No.2 split up charge-sheet has been filed and case has been registered as S.C.No.74/2023 and thereafter, accused No.2 has been arrested and produced before the Court he has been remanded to judicial custody and filed the bail application which came to be allowed on 24.05.2023 and thereafter the accused No.2 did not appear before the Court again warrant was came to be issued and he has been remanded to judicial custody charge was framed and again he was released on bail and again he was absent NBW was

issued which came to be executed and produced before the Court and he has been remanded to judicial custody, now again filed the instant bail application and sought for release him on bail.

9. The learned counsel for the accused No.2 in his arguments has submitted that, the accused No.2 is the innocent he has not at all committed the offences which alleged against him even then a false case has been registered against the accused No.2 and accused No.2 was not feeling well that is a reason why he could not appear before the Court, thereby NBW was ordered to be issued which came to be executed and produced before the Court and he has been remanded to judicial custody, now the accused No.2 is in the judicial custody and undertakes to appear before the Court on all the hearing dates without fail and because of non-appearance before the Court the accused No.2 is in the judicial custody and accused No.2 is only the earning member to his family and prays for allow the bail application.

10. Per contra, the learned Public Prosecutor in her arguments has submitted that, case was came to be registered not only against the accused No.2, but also other accused persons in the year 2018 and the I.O conducted the investigation and filed the charge-sheet since from the date of incident accused No.2 was absconding and he has been split-up from the original charge-sheet. Though the accused No.2 was came to be released on bail he was absent before the Court no representation because of that reason number of times bail application were came to be allowed even then he did not appear before the Court and he has no respect to the Court otherwise he would have appear before the Court regularly without violating the conditions. Therefore, if the conduct of the accused No.2 is taken into consideration the accused No.2 is not entitled the bail and prays for reject the bail application.

11. It is an admitted fact, at the instance of one P. Ravi S/o Late Puttaraju resident of Kyathamaranahalli Village case was came to be registered by the complainant police in

their police station crime No.359/2018 for the offence Punishable under Sec.143, 147, 148, 341, 323, 324, 307, 504, 506 R/w Sec.149 of I.P.C. The I.O after conducting the investigation filed the charge-sheet stating that, the accused No.2 has been absconding from the date of incident, thereby requested to issue NBW against the accused No.2 and case was came to be registered against the accused No.2 in S.C No.328/2022, but because of non-appearance before the Court, the accused No.2 has been split-up from the original case and I.O has been directed to file the split-up charge sheet. Accordingly, the I.O submitted a split-up charge sheet against the accused No.2 and accused No.2 has been arrested and he has been remanded to judicial custody and accused No.2 has filed the bail application and sought for release him on bail which came to be allowed on 24.05.2023 in the said order the accused has been directed that **he shall appear before the Court on all the dates of hearing without fail**, on 05.07.2023 surety has been accepted and issued a release intimation to the jail authority, but on

27.09.2023 accused No.2 was absent, EP has not been filed thereby warrant has been issued against the accused No.2 and on 29.11.2023 accused No.2 was present and NBW was recalled again the case was set down on 26.12.2023. On 26.12.2023 again accused No.2 was absent and counsel who appear on behalf of the accused submitted that the accused No.2 is in judicial custody in another case, thereby NBW was issued against the accused No.2 and set down the case on 27.01.2024, on 27.01.2024 accused No.2 was present application was came to be filed and recalled the NBW and again accused No.2 was absent and no representation, thereby NBW was ordered to be issued against the accused No.2 thus NBW was came to be executed and produced before the Court and he has been remanded to judicial custody and thereafter the very accused filed the bail application on 25.10.2024 and the said bail application was came to be allowed on 11.11.2024 with conditions that **the accused No.2 shall attend the Court on all the hearing dates without fail**, but again accused was absent NBW was

issued against the accused No.2 and concerned police have executed the NBW and produced before the Court and he has been remanded to judicial custody. Now the accused No.2 has come up with the instant bail application.

12. It is an admitted fact, the accused No.2 was absconding from the date of incident. Thereafter, split up charge sheet has been filed against the accused No.2 **though this Court granted the bail number of times by imposing conditions that the accused No.2 shall appear before the Court on all the hearing dates without fail,** but the reasons best known to the accused No.2 has violated the orders of this Court knowing fully well that shall appear before the Court on all the hearing dates, since the case was came to be registered against the accused No.2 in the year 2018 we are in the year 2025 and the case is pending almost for 8 years because of non-appearance of the accused No.2 before the Court and if the conduct of the accused No.2 is taken into consideration it is clear the accused always filing the bail application and to obtain the bail and absent before

the Court whenever the warrant has been issued the concerned police have secured the accused and produced before the Court and thereafter, he use to file the bail application to release on bail, if the order sheet of this Court is taken into consideration it is a habit of accused No.2 for his non-appearance before the Court and to delay in disposal of the instant case because of him only this case is pending since 8 years. Therefore, it is just and necessary in the interest of justice to reject the bail application as this matter is pending since 2018 without any progress though this Court framed the charge on 22.02.2024 because of non-appearance of the accused No.2 there is no progress. Therefore, at-least till examination of material witnesses the accused No.2 is not entitled the bail, otherwise there will be no progress in the instant case. Hence, I am of the opinion that the Point No.1 is answered in the ***Negative***.

13. POINT No.2: In view of my answer to the Point No.1, as stated supra I proceed to pass the following:

ORDER

The Bail application filed under Sec.439 of Cr.P.C filed by the accused No.2 is hereby ***Rejected***.

(Dictated to the stenographer Grade III directly on Computer, typed by him, corrected and then pronounced by me in the Open Court, on this the **10th day of June 2025**)

(P.J.Somashekar)
IV Addl. District & Sessions Judge,
Mysuru.

MRS