

KAMS010001562022



**IN THE COURT OF THE III ADDL DISTRICT & SESSIONS
JUDGE, MYSURU**

Present : **Sri. Gururaj Somakkalavar, M.A., LL.B.,**
III Additional Sessions Judge, Mysuru.

SC/3/2022

Dated this the 21st day of July 2025

Complainant:

State by Vidyaranyapuram Police Station,
reptd. By Public Prosecutor, Mysuru
District, Mysuru.

/vs/

Accused No.2:

Jahangir Alam Shaik @ Kalu s/o Abdul
Malik Shaik, aged about 32 years, R/a
Bedarabad Post, Baisnab Nagar Taluk,
Malda District, State of West Bengal.

Present r/a # J501, Veena Dinesty
Apartment, Deeva Police Station
Jurisdiction, Sunshine City Apartment
Area, Nallasopara Alkole Road, Vasai
Taluk, Palgar District, Maharastra

**Order on application filed U/s 439 of Cr.P.C by the
accused No.2**

The complainant police have registered a case against this accused No.2 along with other 8 accused for the offences punishable U/s 114, 115, 120(B), 216(A), 342, 394, 396, 399, 449 of IPC and Sec.25, 25(1b), 27(1) of Indian Arms Act 1959. As the charge sheet has been filed, it is numbered as CC.No.4577/2021. As the case has been committed to this Court, it is now numbered before this Court as SC.No.3/2022. The alleged offences are non-bailable in nature. This accused has been in judicial custody since the date of his arrest. Hence, he has come up with this application for his release on bail.

2. The prosecution case narrated in the application is as under:

The case is registered on the complaint of Dharmendra.S. It is stated that he is running a jewelry shop under the name and style of Amratha Gold and Silver Palace at No.667, 16th Cross, 4th Main, Vidyaranyapuram. On 23/08/2021 at 5.00 p.m two strangers came to the shop and asked for a bracelet. When he was showing the bracelets to them two other persons came inside the shop and two to three persons who had come along with them stood near the door of the shop. The one person closed the shutters of the shop and one person assaulted him with hands and held a pistol near his head. The other persons tied his hands and

stuffed the cloth to his mouth. The remaining persons took the gold ornaments. At that time his uncle came near the shop and asked him to open the shutters. At that time the said persons opened the shutters and went away with the gold ornaments and the cash. He heard the firing sound of the pistol and the cry of one person. His uncle and mother came inside the shop and untied him. When he came out side he saw that his customer by name Chandru had fallen down on the ground and there was bleeding from his head. Chandru was taken to the hospital. He also went to the hospital along with his brother and is taking treatment. Hence, the police registered a case against them. The accused is an innocent and law abiding citizen, hailing from a respectable family. He has not committed alleged offences. The police have registered a false case against him. He undertakes to appear before this Court on all hearing dates without fail and ready to abide by the terms and conditions imposed by this Court and also ready to furnish solvent surety to the satisfaction of this Court. Hence, prayed to enlarged him on bail.

3. The learned PP filed her objections contending that this accused with other accused have committed the offences punishable U/s 114, 115, 120(B), 216(A), 342, 394, 396, 399, 449 of IPC and Sec.25(1b), 27(1) of Indian Arms Act 1959. The police have filed the charge sheet against the accused. The prosecution has explain the allegations noted in the charge sheet against accused No.2. The alleged offences

are non bailable in nature. The allegations leveled against this accused No.2 and other accused are of heinous in nature and prima-faice, it reveal that this accused involved in committing the similar offences. It is further pointed out that accused is habitual offender and case is registered against in Mumbai police stations. He has also served sentenced after conviction in some of the cases. As this accused No.2 is an habitual offender, if he is released on bail, he will abscond and definitely involve in committing the similar offences. Hence, prayed to reject the application.

4. Heard the argument of both side.

5. Now the points that arise for my consideration are:-

1. Whether the accused No.2 is entitled to be released on bail as prayed under Sec.439 of Cr.P.C?

2. What order?

6. My answers to the above points are as follows:-

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

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

REASONS

POINT NO.1:

7. The police filed the charge sheet against accused No.1 to 9 for the offences punishable U/s 114, 115, 120(B),

216(A), 342, 394, 396, 399, 449 of IPC and Sec.25(1b), 27(1) of Indian Arms Act, 1959.

8. The prosecution case is that as per the statement given by the injured/complainant by name S.Dharmender at Ramakrishna Hospital, Mysuru, on 23/08/2021 when he was in his jewellery shop, at about 5.00 p.m, one unknown person entered into the shop and asked for a bracelet in Urdu language. When he was showing bracelet box to him, other two persons entered in the shop, 2 to 3 persons who came with them were standing at the outside of the shop, among them, one person pulled down the rolling shutter of the shop from the inside, one person heavily assaulted him, another person pointed a pistol at his head, immediately others tied his legs and hands with the rope and stuffed cloth into his mouth and then robbed all gold and silver jewels from his shop. By that time, his uncle asked him to open the door as the customer is waiting outside, by standing outside the shop. By that time, all the persons who were inside the shop pulled the shutter and ran away. By that time, he heard the sound of pistol and also screaming of a person. Thereafter, his uncle and mother removed the cloth from his mouth and also untied him. Then they came out of the shop and saw that one customer was lying in front of his shop with bleeding. He came to know his name was Chandru. Later, the public shifted the said Chandru to the hospital. He also got admitted to the hospital. He came to know that the said Chandru i.e. the customer died due to shoot out. He had

seen the persons who had robbed his shop. The same had been recorded in the CC camera of his shop. With these allegation charge sheet is filed against accused No.2 and other accused.

9. During the investigation the accused No.2 herein is arrested and remanded to judicial custody. Now, accused No.2 has filed present application seeking for bail.

10. After hearing the argument and giving thoughtful consideration and material on record it reveals that, accused No.2 herein is charge sheeted for the offence of dacoity with murder and he also alleged with offences under Arms Act. If the allegations against the accused No.2 is looked into he is the prime accused in the present case. He along with accused No.1 and other accused conspired the alleged offence. This accused No.2 has planed the entire dacoity. Accused No.2 and others have prepared for dacoity and executed the same. This accused No.2 has purchased pistol from accused No.8 to execute robbery. They robbed gold and silver articles from Amruth Gold and Silver Jewelry shop. It is alleged against accused No.2 that, he has assaulted C.W-1 and tied him with rope wrongfully restrained him. The pistol purchased by the accused No.2, accused No.1 while dacoity shoot deceased Chandru with pistol and committed murder of deceased Chandru. After that, accused No.2 took away jewelries and cash. He made to sell the jewelries came to the share of accused No.1 with CW-49. After selling of those gold

and silver got transferred amount to his relative's account. All the incident is recorded in the CC footage and there is clear evidence of the involvement of accused No.2 in the alleged offence. It is the relevant to note here that, all these accused have planed the dacoity and executed the same. There is sufficient evidence against accused No.2 that he is involved in the alleged offence. This accused No.2 is resident of West Bengal State. He has been arrested in Mumbai in the Apartment. After arrest the jewelries and mobile phone of complainant are seized.

From the records it appears that, this accused No.2 is not resident of Mysuru, he has came to Mysuru along with other accused with intention to commit dacoity. It is also reveals from the records that, this accused is also involved in other cases. There cases registered against accused No.2 in Mumbai police station. Presently this accused No.2 is convicted in Mumbai and he is serving imprisonment. There are serious allegations against accused No.2. That apart in this present case the other accused No.4, 6, 9 are absconding and could not be traced. Hence, charge sheet is filed case against accused No.6 & 9 is split up. The case is set for trial. All these accused belongs to different state. The accused No.3 is absconded when he was released on interim bail. Now, he is traced back on execution of warrant by Hon'ble High Court of Karnataka. It is relevant to note that, this accused No.2 is the resident of West Bengal, if he is released on bail, he will abscond from the jurisdiction. The

same will hamper the trial and the case will not reach logical end. The offence alleged against the accused No.2 are punishable with death or imprisonment for life or regress imprisonment for a term which may extend to 10 years. Considering the nature of the allegations against accused No.2 and the facts and circumstances of the case accused No.2 is not entitle for bail. It is also pertinent to note that, since there is serious allegation against the accused No.1 threatening and tamping the witnesses can not be ruled out. Hence, this court is of the view that, accused No.2 has not made out grounds to allow the application. In result the bail application deserves to be rejected. Hence, I answer point No.1 in the **Negative**.

POINT NO.2:

11. In the result, I proceed to pass the following:-

ORDER

The application filed by the accused No.2 U/s
439 of Cr.P.C is hereby **rejected**.

(Dictated to the Stenographer directly on computer and then pronounced in the open court on this the 21st day of July 2025)

(Gururaj Somakkalava)
III Addl. District & Sessions Judge,
Mysuru.