

KAMS010023172026



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

Present: Sri.Gururaj Somakkalavar, M.A., LL.B.,

Dated this the 07th day of April 2026

Crl.Misc./477/2026

PETITIONER:

Manjunatha.S,
S/o Late Shivappa,
Aged about 40 years,
Proprietor,
M/s Sri.Manjunathaswamy
Developers and Infrastructure
Pvt., Ltd., No.97, 4th B Cross,
Patta House-II, Koramangala
5th Block, Koramangala Industrial
Layout, Bengaluru.

R/at No.168/1/20, 6th Cross,
Gururaja Layout,
Near Nanjundeshwara Temple,
Doddannekundi, Bengaluru North.

(By Sri.Manju.S, Adv.,)

V/S

RESPONDENT:

State by S.H.O,
Lakshmipuram Police Station,
Mysuru.

(By the Public Prosecutor)

ORDERS ON PETITION FILED U/s 438 OF Cr.P.C

This petitioner in Cr.No.16/2026 registered on the file of Lakshmipuram Police, have filed this petition U/s 438 of Cr.P.C, seeking his release on bail in the event of his arrest by the respondent police for the offences punishable U/s 406 & 420 of IPC.

2. It is contended by the petitioner that he is innocent and law abiding citizen. He has not at all committed any offence as alleged by the respondent police. A false case has been registered against him. He is from respectable family. He is the permanent resident of Bengaluru, having movable and immovable properties. There is no prima-facie case against him. The alleged offences are not punishable with life imprisonment or death and triable by the Court of Magistrate only. The petitioner undertake to appear before the court on all hearing dates and they further undertakes not to tamper with the prosecution witnesses. He is ready to abide by the terms and conditions which may imposed by this court. Hence, prayed to allow this petition.

3. Per contra, the learned Public Prosecutor appearing for the respondent, filed detailed objections by reiterating the averments of the complaint and

submits that there is prima-facie case against the petitioner. Sec.406, 420 of IPC is non-bailable offence and punishable with imprisonment for 7 years and fine. The investigation is under progress. The petitioner has been absconding. The IO has to arrest the petitioner and has to record his voluntary statement. The IO has to record some witnesses statements. At this stage, if the petitioner is released on bail, there are all possibilities of tampering and destroy the evidences, scare and threaten the witnesses, make the witnesses give false testimony during the trial, hide and abscond and delay the trial of the case unnecessarily. The facts stated by the petitioner in the bail application are far from truth and he is also denied. The investigation file of this case is being produced and it is also requested to be considered as part of this dispute. Hence, prays to dismiss the petition.

4. Having heard the arguments of the counsel for the petitioner, the learned Public Prosecutor and upon perusal of the records, the points that arise for consideration of this court is:

1. Whether the petitioner is entitled for bail
U/s 438 of Cr.P.C?
2. What Order?

5. The findings of this court to the aforesaid points is:

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

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

REASONS

POINT NO.1:

6. Case is registered against the petitioner on the information by Smt.Shashikala.N. It is alleged that, the informant is intended to purchase house in Mysuru. At that time she met one Sarojini and she took informant to the apartment, which was under construction in Chamarajapura and shown the flat on the 4th floor. Further, informed to contact the owner of the Manjunathaswamy Developers and Infrastructure Pvt., Ltd., Company, who is constructed the said apartment and also assured that, she will speak to the owner i.e., petitioner herein about the plan to purchase the flat. After that, the petitioner, who is the owner of the said company met the informant at the said apartment and informed that, since, on the 4th floor there will be construction of electric room. He proposed to sell flat type 3 F/306 in the 3rd floor. There was talks with regard to the transaction, where the amount is settled

for Rs.77,00,000/-. After that, Rs.44,00,000/- was transferred through RTGS to the account of Sri.Manjunath Build Con in the Union Bank of India. After that, Rs.28,00,000/- was paid by way of cash. Out of which Rs.10,00,000/- paid to Sarojini. On different dates Rs.2,00,000/- was paid. After that, on 18.07.2022 Sale Agreement was executed.

After one year one Dhanalakshmi Shivakumar met informant. She informed that, an Agreement dated 05.05.2016 was executed in respect of the type 3 F/306 on the 3rd floor in SMD Ambavilas Apartment. Since, there is raise in the price another Agreement is executed on 04.08.2020 for consideration of Rs.55,74,000/-. They have paid Rs.47,00,000/- towards the said sale transaction. Informant got surprise and contacted petitioner herein. He informed that, the amount to Dhanalakshmi will be return and flat will be sold to informant. Again for the alternation another Rs.1,25,000/- was paid by way of cash. Even, after one year the petitioner has not completed the flat work and registered the Sale Deed and gave one or the other reasons. Even the Dhanalakshmi also told that, her amount is also not repaid by the petitioner. Further, when it was enquired with the purchaser of

the flat it is found that, the petitioner has executed Agreement of sale in respect of flat No.303-C to one Rathna.D and again the another Sale Agreement was executed to Jayanandaprasad in respect of same flat. Further, an Agreement of Sale was executed in respect of flat No.305 to one Suresh and in respect of very same flat Sale Deed was executed in favour of Ganesh Dharanendra. By that, the petitioner has sold flats to different persons. By that, has committed cheating. Inspite of executing Sale Deed to one Dhanalakshmi in respect of type 3/F-306 concealing the same executed Agreement of sale in favour of informant. By that, the accused has committed cheating. With these allegations information is lodged. Now the petitioner approached Court apprehending the arrest.

7. After hearing and giving caught full consideration to the material on record, it reveals that, this petitioner cheated the informant. The allegation against the present petitioner, who is the accused that, he has executed Agreement of sale in respect to one flat to two different persons and received the amount. Inspite of that has not executed Sale Deed in respect of the said flat. It is the arguments by the petitioner counsel that, there is no intention to cheat the

informant herein. There is issue with regard to the execution of Sale Deed in favour of the informant. It is further pointed out that, the petitioner herein has entered into joint development Agreement with the original owners of the land. There is dispute arose between the petitioner and original owners in respect of joint development Agreement. For that, one of the original owner by name Druvakumar has filed Arbitration Petition No.3/2024. Wherein there is interim order operating against the petitioner herein from alienating the property. Due to legal hurdle the Sale Deed is not been executed. Further, it is pointed out that, there is understanding between the Dhanalakshmi and petitioner for return of the amount and cancellation of the Sale Agreement entered between both. E-mail dated 15.06.2022 is being placed on record. It is argued that, there is litigation pending for consideration and due to the same the Sale Deed is not executed. And there is no malafide intention on the part of the petitioner for not executing the Sale Deed. The dispute involves civil in nature.

It is to be noted that, in support of the said contention petitioner has placed records. On appreciating these aspects it is alleged that, the petitioner has not

executed Sale Deed in respect of the flat mentioned above. The intention of the petitioner to cheat is to be investigated and proved in the trial. Since, the investigation in respect of the documentary evidence, considering the facts and circumstances, detention of the petitioner is not warranted as custodial interrogation is not required.

8. By now it is settled position that the court while considering the bail petition need not dwell upon the merits of the case or examine the veracity of the complaint allegations, as such an attempt by the court would prejudice the case on either side in one way or the other way during the trial Court. In other words only on the basis of the prima-facie material on record the court has to decide whether to grant or reject the bail application.

9. Holding mini trial by the court while considering the bail petition is deprecated by the Hon'ble Apex Court and various other Hon'ble High Courts in catena of judicial pronouncements, as such in exercise, in the opinion of the Apex Court, would affect the case of either party in one way or the other. Thus desisting from holding the mini trial on the basis of prima-facie material on record, this court is of the

considerable view that at this stage there are no strong grounds so as to deny the anticipatory bail to the Petitioner. Allegations have been made against the accused/Petitioner, but the said allegations have to be investigated.

10. One of the consideration that has to be kept in mind by the court while granting bail is to ensure presence of the Petitioner/accused before the court or the Investigating Officer as and when necessary. In the case on hand the Petitioner are the permanent residents of address given in the cause title of the petition, which has not been either denied or disputed by the prosecution. At this stage there is nothing on record to infer that the presence of the Petitioner/accused cannot be secured before the court in the event of grant of bail. The Petitioner have undertaken to abide by the conditions of the court and to offer surety for the satisfaction of the court.

11. Apprehension of the prosecution is made out in the objection statement that in the event of the grant of bail the petitioner is likely to tamper with the prosecution witnesses etc can be quelled by putting the petitioner on stringent conditions while granting anticipatory bail. Considering the gravity of the offences

and the punishment provided thereto and the material on record this court is of the opinion that the petitioner has made out grounds for grant of anticipatory bail. Thus, this petitioner is entitled for grant of anticipatory bail. Hence, this point is answered in the **Affirmative**.

POINT NO.2:

12. In view of the foregoing discussion and the reasons assigned on Point No.1, this court proceed to pass the following:

ORDER

Bail petition filed U/s 438 of Cr.P.C by the petitioner is hereby **ALLOWED**.

The petitioner is ordered to be released in the event of his arrest by the Respondent Police, if not required in relation to any other offence, in Cr.No.16/2026 on his executing personal bonds for Rs.1,00,000/- with two sureties for the likesum (out of two sureties, one surety must be the surety of Government servant) on the following conditions.

1. The petitioner shall appear before the I.O., within 10 days from the date of receipt of this order.
2. The petitioner shall not tamper with the Prosecution witnesses either directly or indirectly in any manner.
3. The petitioner shall not abscond from the ordinary residence and he should furnish the address proof to the concerned police.
4. The petitioner shall not indulge in any kind of offence.
5. The Petitioner shall not leave the jurisdiction of the Court without prior permission of the concerned Court.
6. The petitioner shall mark his attendance before the concerned I.O., weekly once from 6 a.m., to 8 P.M., till filing of the charge sheet.
7. The petitioner shall have to appear before the court on all hearing dates without fail.

If any of the above conditions violated,
the IO is at liberty to move for
cancellation of bail.

(Dictated to the Stenographer directly on computer, corrected and then
pronounced by me in the open court on this the **07th day of April 2026**).

[Gururaj Somakkalavar]
III Addl. District & Sessions
Judge, Mysuru.