

**IN THE COURT OF THE PRINCIPAL DISTRICT AND  
SESSIONS JUDGE AT MYSURU**

**Dated this, the 10<sup>th</sup> day of July 2020**

**Present:** **Sri. RAMACHANDRA D.HUDDAR**, B.Com., LL.M,  
Prl.District & Sessions Judge,  
Mysuru.

**Spl.C.366/2019**

**Complainant** : State by Udupi Police Station  
(By **Spl. Public Prosecutor**)

**//Vs//**

**Accused:** Rajendra Kumar.S.V. and  
others.

**Accused No.2** **Shashi Poojari @ Shadow @  
Shashikumar** S/o Vijay A.  
Ameen, Aged about 28 years,  
Presently R/at 11<sup>th</sup> Main Road,  
9<sup>th</sup> Cross, 2<sup>nd</sup> Stage, J.P.Nagar,  
Bengaluru.

**Accused No.3** **Dhanraj V. Kotyan @ Dhanraj  
Poojari @ Dhanraj @ Rock** S/o  
late Virendra Kumar, aged about  
26 years, Presently R/at Ashraya  
Nilaya, Forest Gate, Near  
Katapadi, Yenagudde Village,  
Udupi Taluk and also at Sree Sai  
House, Matadhangadi,  
Udyavara.

**Accused No.4** **Ravichandra Poojari @ Vikki  
Poojari** S/o Vijay A. Ameen,  
Aged about 30 years, Presently

R/at 11<sup>th</sup> Main Road, 9<sup>th</sup> Cross,  
2<sup>nd</sup> Stage, J.P.Nagar, Bengaluru.

**Accused No.5**

**Dhanraj Salyan @ Dhanu Kola** S/o Raghu Salyan, aged about 30 years, R/at Umavathi Nilaya, Near Yashaswini Ice Plant, Kola, Malpe, Kodavuru Village, Udupi Taluk.

**Accused No.6**

**Ullas Shenoy @ Ullas** S/o Vishwanath Shenoy, aged about 27 years, Residing near Government PU College, Near Narayana Guru Billava Samaja Seva Samithi, Koppalathota, Malpe, Kodavuru Village, Udupi Taluk.

(By Sri.Shivaprasad Gavnrkar, **Advocate**)

**:: O R D E R ::**

Accused Nos.2 to 6 have filed this application under Section 439 of Cr.P.C. to grant them bail.

2. It is stated in the bail petition that, the complainant police have registered a case against accused Nos. 1 to 6 for the offences punishable under Sections 507, 504, 384, 385, 387, 506, 120(b), 201 r/w Section 34 of I.P.C. and Section 3 of Karnataka Control of Organized Crimes Act.
3. As per the say of accused Nos.2 to 6, informant by name Rathnakara Shetty resident of Uppura Village in Udupi Taluk, lodged a complaint stating that, he has received the telephone call from unknown persons, it was being

submitted by Brahmavara Police initially, alleging that, on 13.03.2019 at 12.00 noon, he received a telephone call to his mobile No.9448888388 from mobile No.9742477467 and a person abused this complainant that, why he is not receiving the call, though he called for three times. By abusing so, he gave a threat that, he is going to kill his son. Again at 12.18 p.m., another call came, but he did not receive the call. Again at 12.20 p.m., another call was received and he demanded to pay the money, otherwise his son will be killed. Such a threat was given to the complainant in Tulu language. With these allegations, he filed a complaint before the Brahmavara Police, stating that, the persons who called from the aforesaid mobile be traced and action be taken against him.

4. According to the petitioners, allegations made in the complaint are false. The Brahmavara Police initially sought permission to register the same in N.C.R./98/PTN/BVR/19 and registered the same in Crime No.42/2019. Therefore, the said complaint was transferred to Udupi Town Police Station and renumbered in Crime No.25/2019.
5. Accused No.6 approached the court for grant of bail and he was granted bail.
6. After the aforesaid procedures, Udupi Town Police Station invoked the provision of Karnataka Control of Organized Crimes Act. Now, the police are bent upon that, these accused persons should not avail any bail from any court.

Therefore, accused Nos.2 to 6 are seeking bail on the following grounds:

It is stated that, accused No.6 is having very serious health ailments and he was already released on bail by the court on 28.03.2019. These accused persons are in custody from 21.03.2019, are entitled for bail. It is stated that, they are innocent persons. Even, accused No.6 approached the Additional Chief Judicial Magistrate Court, Udupi, by filing application under Section 436 Cr.P.C. and sought bail. But, at the instance of the Police Officers, accused No.6 was not released. It is stated that, as per the settled principles laid down by the Hon'ble Supreme Court in various judgments, though the offences are non-bailable offences, but the punishment prescribed is not for death or life imprisonment. The petitioners are ready to abide by the conditions to be imposed by the court. They are ready to offer solvent sureties. Amongst other grounds, it is prayed by these accused Nos.2 to 6 to grant them bail.

7. Notice of this application is served upon Public Prosecutor. He filed detailed objection, stating that, the offences aforesaid are non-bailable offences. There is a prima-facie evidence placed on record by the prosecution to prove that, these petitioners are syndicate to accused No.1 in the commission of the aforesaid crimes. Therefore, this application is not maintainable. Once, the bail application so filed by these petitioners was rejected by this court on 04.11.2019. Accused No.1 now is in Hindalga Jail, Belgaum

District. He was absconded to foreign country. With great difficulty he was arrested. Accused No.1 is carrying such illegal activities for monetary gain. He is involved in so many crimes. Against accused No.2 there are 4 cases. Against accused No.3 there are 6 cases. Against accused No.4 there are 5 cases. Against accused No.5 there are 3 cases and against accused No.6 there are 2 cases pending. All these offences though alleged against them are punishable with more than 3 years imprisonment. These accused Nos.2 to 6 are doing illegal activities carried out by accused No.1.

By calling the complainant, they demanded to pay Rupees 15 lakhs in 3 installments. Complaint is registered and now the accused are booked under the aforesaid offences. After investigation, police have laid charge sheet. The evidence so collected by the prosecution shows that, these accused have committed the offence under the provisions of Karnataka Control of Organized Crimes Act. There is a provision regarding bail under Section 22 of the said Act. Even, the accused have given confession statements under the aforesaid Act, which is admissible. Hence, taking into consideration of all these facts, these accused persons cannot claim bail as a matter of right. Hence, it is prayed by the prosecution to dismiss the bail petition.

8. Along with the objection statement, the Special Public Prosecutor has produced the list of cases pending against all these accused persons in various crimes.

9. Heard the arguments. Meticulously perused the records.
10. The points that would arise for my consideration are as under:

**1. Whether accused Nos.2 to 6 are entitled for bail as prayed for?**

**2. What Order?**

11. My answer to the above points are as under:

Point No.1: In the negative

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

**: REASONS :**

12. **POINT NO.1:** On scrupulous reading of the records of this case, these accused along with accused No.1 filed bail petition on 20.04.2019 before this court. The said bail petition was resisted by the prosecution and a detailed order came to be passed by my Predecessor on 04.11.2019, dismissing the application so filed. This fact is admitted.
13. During the course of arguments, the learned counsel for the petitioner with all vehemence submits that, unnecessarily these accused Nos.2 to 6 have been dragged under the provisions of KCOC Act and accused No.1 is the main accused. These accused Nos.2 to 6 are alleged to be connected with accused No.1. These accused are in

custody since from the date of arrest and the provisions of 439 Cr.P.C. envisages that, if the punishment prescribed for the said offence is not life or death, the bail has to be granted. Invocation of KCOC Act is not permissible as one criminal case is pending against accused No.6. He further submits before the court that, false complaint has been registered and it was registered as N.C.R. Thereafter, these accused persons have been arrested. He relies upon the medical report of accused No.6, wherein he suffering from Acute Pancreatitis Starvation Ketosis Chronic Calcific Pancreatitis Pancreatic Diabetes etc. He is taking treatment at Dr.TMA Pai Hospital, Udupi, as per the medical records. It is submitted that, as he is suffering from serious disease, therefore, he is entitled for bail.

14. In support of his submission, he relies upon some judgments passed by the Hon'ble High Court of Karnataka in Crl.Petition No.4491/2019 dated 07.08.2019 and 1998 Cri.L.J.913. Relying upon all these documents, it is submitted by the learned counsel for the accused that, these accused persons are entitled for bail.
15. As against this submission, the learned Spl. Public Prosecutor relies upon the provisions of KCOC Act, wherein he submits that, these accused persons have given their confession statement and they are admissible under the provision of 19 of KCOC Act. By sitting in jail itself, they are controlling the organized crimes and accused No.1 is the Kingpin. It is submitted that, against these accused persons various

crimes have been registered and they are still pending. As a matter of right, these accused are not entitled for bail. He submits that, why the KCOC Act has been enacted is very much clear.

16. I have applied my mind to the arguments of both sides.
17. As could be seen from the allegations made in the complaint, a complaint has been lodged by the complainant stating that, he received a threatening call given by the unknown persons, demanding money, therefore, he lodged a complaint. The police after investigation, have filed the charge sheet against the accused for the offences under Sections 384, 387, 504, 506, 507, 201, 109, 120(B) r/w Section 34 of I.P.C. and Section 3(1)(2), 3(2), 3(4), 3(5) of Karnataka Control of Organized Crimes Act 2000. The investigation papers do reveal about the allegations made against each accused persons and to that effect, the statements of witnesses have been recorded by the Investigating Officer during the course of investigation.
18. So far as crime of present nature is concerned, it is a very serious crime. After laying the charge sheet, the court has taken cognizance of the offences and on reading the provisions of Karnataka Control of Organized Crimes Act 2000, this act is enacted to promote the object of its enactment to enable the machinery to deal effectively with persons involved in, and associated with, terrorist and disruptive activities while ensuring that any person not in

that category should not be subjected to the rigours of the stringent provisions of the TADA Act.

19. It is the duty of the courts in such cases, to accept a construction which promotes the object of the legislation and also prevents its possible abuse even through the mere possibility of abuse of a provision does not affect its constitutionality or construction. Here, the materials have been collected by the Investigating Officer and charge sheet has been laid by him against the accused for the aforesaid offences. This abuse has to be checked by constant vigilance and monitoring of individual cases and this can be done by screening of the cases, by a suitable machinery at a high level.
  
20. The object of the act is, that Organized Crime is a very serious threat to our society. It knows no national boundaries. It is fuelled by illegal wealth generated by contract killings, smuggling in contraband, illicit trade in narcotics, kidnappings for ransom, collection of protection money from business establishments and individuals and money laundering etc. That means, the illegal wealth generated by the organised crime is so huge that after a stage, its perpetrators are trying to interfere with the vital institutions of the state by their money power or through threat or intimidation. The allegations is that, these accused are involved in many criminal activities and which tend to be question mark on the very status of these accused persons, as the perpetrators of the crime. So,

therefore as defined under the provision of Section 2(1)(e), Organised Crime means, any continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency.

21. Section 19 of the said Act specifically states about the admissibility of confession statement. On reading grounds made out in the bail petition, no new ground has been made out in the bail petition. Section 19 speaks of admissibility of confession statement and Section 30 speaks of protection of witnesses and Section 32 speaks certain confessions made to police officers to be taken in to consideration. Charge sheet is laid in this case by collecting sufficient materials and as stated supra, there are no new grounds made out by the accused to grant them bail. So, also at the time of deciding the bail petition, the court has look into the provisions of the offences and the gravity of the offences so made out by the accused. So also, its nature and possibility of applicant flee from justice and other factors, if these accused are enlarged on bail, no hardship would be caused to them. As accused No.6 is suffering from disease, he is already taking treatment in the hospital and the jail authority can very well provide required treatment to accused No.6. Therefore, direction is

to be issued to provide appropriate treatment to accused No.6. In the given facts and circumstances of this case, this accused Nos.2 to 6 are not entitled for bail as a matter of right. The judgments relied upon by the counsel for the accused is concerned, there cannot be any dispute on the position of the law reflects in those judgments. Hence, the application under Section 439 Cr.P.C. being devoid of merits, is liable to be rejected. Accordingly, I record my findings on point No.1 in the negative.

22. **POINT NO.2:** Resultantly, I pass the following:

### **ORDER**

Bail application filed by accused Nos.2 to 6 is rejected.

However, issue necessary direction to the Superintendent of Jail to provide necessary medical assistance to accused No.6, if required.

(Dictated to the Stenographer, transcribed by her on Computer, revised, corrected and then pronounced by me in open court on this day, the **10<sup>th</sup> day of July 2020**)

**(RAMACHANDRA D. HUDDAR)**  
Prl. District & Sessions Judge,  
Mysuru.

\*Jk