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

Dated this the 25th day of September, 2025

PRESENT

Smt. Usharani, B.A.(Law), LL.B.,
Principal District & Sessions Judge,
Mysuru.

Spl.C.NO.489 of 2024

Complainant: State by E & N Crime Police Station
[By learned Public Prosecutor]
V/s.

Accused: Rehamatthulla and others

**Applicant/
Accused No.2** Mohammed Yusuf, S/o Rabbani,
aged about 28 years, Residing at
No.2696, 5th Cross, Sunni Chowk,
Mandimohalla, Mysuru City.

ORDER

This bail application has been filed by the accused
No.2 under Section 439 of the Code of Criminal
Procedure ('Cr.P.C.' for short).

2. The grounds urged in the bail application are that
accused No.2 is innocent of the alleged offence. Issuance

of NBW in the case came to his knowledge recently when the immigration officials detained him at Kannur Airport, Kerala. If he is continued in detention, there will be infringement of his liberty. He has not committed any offence. He undertakes to furnish surety to the satisfaction of the Court. Alleged offences since not punishable with death or imprisonment for life, there is no embargo for the Hon'ble Court to enlarge him on bail. Hence, prayed to grant him bail.

3. The learned Public Prosecutor has filed objections stating that there is prima-facie case against the accused No.2. Since accused No.2 was not found at his address, NBW was not executed. On 22.10.2024 case against accused No.2 was separated and he is absconding and hence, if he is enlarged on bail, he may threaten the prosecution witnesses. Alleged offences are punishable with imprisonment up to 10 years and with fine of Rs.1,00,000/-. Hence, prayed to reject the bail application.

4. Heard the arguments.
5. The points that would arise for my consideration are:

- 1) Whether the bail application filed by the accused No.2 under Section 439 of Cr.P.C. deserves to be allowed?

- 2) What order?

6. My answers to the above points are as under:

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

Point No.2: As per final order

For the following:

REASONS

7. **POINT NO.1:** The learned public prosecutor has strongly objected for granting bail to the accused No.2 on the ground that, accused No.2 is absconding since 3 years and went to foreign country. Hence, he was detained by Immigration Officials when he was alighting at Kannur Airport, Kerala. Therefore, if bail is granted to him, once again he may abscond or tamper the prosecution evidence.

8. The learned Advocate for the accused has argued that the passport of the accused is seized and hence, question of accused No.2 absconding does not arise. Further it is also the argument of learned advocate for the accused that, the issuance of NBW came to his knowledge only when he was detained by Immigration Officials.

9. It is pertinent to note here that, during crime stage that was on 15.12.2020, accused No.1 and 2 were produced before the Court and were remanded to J.C. time to time till they were enlarged on bail on 06.01.2021. Thereafter accused No.2 became irregular before the Court. In the year 2021 charge sheet has been filed and hence, given Special Case No.513/2021 and accused No.2 has continuously remained absent before the Court. On 22.08.2024 it was brought to the notice of Court that accused No.2 was residing in Dubai. Hence, in the year 2024 case against him was split-up and NBW has been issued. But accused No.2 could not be traced, as he was not found at his residence. Thereafter

it was also brought to the notice of Court that accused No.2 is residing at Dubai. Hence, when he was alighting at Kannur Airport, Kerala, Immigration Officials have arrested him. This itself shows that accused No.2 has got no fear or respect for law.

10. During crime stage bail has been granted to accused No.2 with a condition that accused No.2 shall not leave jurisdiction of this Court without prior permission. The said condition is reproduced here below:-

“5. They shall not leave the jurisdiction of this Court without prior permission”.

11. It is pertinent to note here that, allegation against the accused No.2 is that he along with accused No.1 found stored 4 K.G. of Ganja for the purpose of sale and hence, committed an offence under punishable Sections 20(b)(ii)(B) of NDPS Act, which is punishable with rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees. Therefore, if accused No.2 is enlarged on bail, he may escape from clutches of law and delay the

proceedings. Moreover, alleged offence is serious in nature. Hence, if viewed from any angle, accused No. 2 is not entitled for bail. Hence, I proceed to answer point No.1 in the **negative**.

12. **POINT NO.2:** For the reasons stated above, I proceed to pass the following:

ORDER

The bail application filed by the accused No.2/Mohammed Yusuf, under Section 439 of Cr.P.C., is hereby **rejected**.

(Typed to my online dictation by the Stenographer Gr-III on Computer and after corrections, signed and then pronounced by me in open Court on this the **25th day of September, 2025**).

[USHARANI],
Principal District & Sessions Judge,
Mysuru.