

**IN THE COURT OF THE XXVI ADDL. CITY CIVIL &
SESSIONS JUDGE, AT MAYO HALL, BENGALURU
(CCH.20)**

Present:

**Sri.D.S.Vijaya Kumar, B.Sc, LL.B.,
XXVI Addl. City Civil & Sessions Judge, Bengaluru**

Dated this the 20th day of February, 2020.

Crl.Misc.No.25126/2020

Petitioners:-

1. William @ Willi,
S/o Late Alexander,
Aged about 28 years,
R/a No.147, 3rd Cross, Near
Joseph Church, Oil Mill Road,
Lingarajapuram,
Bangalore-560 084.
2. Vincent,
S/o James,
Aged about 32 years,
R/a. 2nd Cross, Near Anjaneya
Temple, Pooja Garden,
Horamavu, Kalkere,
Channasandra, Bangalore City.
3. G.Ganesh Kumar,
S/o Late Mohan,
Aged about 27 years,
R/a 7th Cross, Near Mukutamma
Temple, Doddabanasawadi,
Bangalore City.

[By Sri.G.S-Advocate]

Vs.

Respondent :- The State of Karnataka,
By Krishanarajapura Police
Station, Bengaluru

[By Public Prosecutor]

ORDER

The petitioners 1 to 3 have filed this petition under section-439 of the Cr.P.C., praying for granting an order of Regular bail in respect of the offences alleged u/ss.506, 448, 364A, 365 and 34 of the Indian Penal Code, in Crime No.46/2020 of the Respondent-Halasur Police Station, Bengaluru.

2. Brief facts of the bail petition are as under:-

That the petitioners have been falsely implicated in a false case. Their names are not mentioned in the First Information Report. Alleged spot is busiest place and hence allegation that informant was kidnapped from his house is

unbelievable. They are falsely implicated in the case. They undertake to abide by any conditions that may be imposed by the court. They will not tamper or hamper the prosecution case. They are permanent residents of Bengaluru City. On these grounds, petitioners have sought for granting bail in their favour.

3. Objection filed by the prosecution to the petition, is as under:-

That on the basis of the complaint of one Sri.Spandan Pradhan, Respondent Police have registered a case in Crime No.46/2020 for the offences u/ss.506, 448, 364A, 365 and 34 of Indian Penal Code against one Lyon and others. Accused persons have committed kidnapped the informant. Petitioners 1 to 3 are also involved in the case and they have committed the offences alleged. If petitioners are granted Regular Bail,

there is likelihood of petitioners tampering the prosecution evidence and threatening the witnesses and they may abscond from trial and cause obstruction to the court proceedings. Petitioners may commit similar offences and the alleged offences are cognizable and non-bailable in nature. Therefore, petitioners are not entitled to an order of regular bail as sought for. Hence, the learned Public Prosecutor has sought for rejection of the bail petition.

4. Heard arguments and also perused the records.

5. In the circumstances, the following points arise for determination are:

1. Whether petitioners 1 to 3 are entitled to an order of Regular Bail, as sought for?

2. What order?

6. My findings to the above points are under:

Point No.1 :- In the **affirmative**

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

R E A S O N S

7. Point No.1:- In the FIR registered against one Lyon who is arrayed as Accused No.1 and some unknown persons on the complaint of one Spandan Pradhan, for the offences u/s.506, 448, 364A, 365 and 34 of Indian Penal Code, it is alleged that on 27.01.2020, at 12 noon Accused No.1 and four others trespassed into the informants house and forcibly took him in an auto rickshaw to an isolated place near Hoskote and there demanded him to pay Rs.40,000/- to release him and assaulted with hands and threatened to do away with his life. Informant out of fear transferred Rs.40,000/- to the Accused

No.1's account through Google Pay. Then Accused persons brought him to his house at 3.40 PM. But, again threatened that they would kill his family members and took Rs.20,000/- and two mobile phones belonging to them.

8. Whereas, Petitioners 1 to 3 whose names are not mentioned in the FIR, claim that they are innocent and they have been falsely implicated in the case. The alleged spot is a busiest place and hence, allegation that the informant was kidnapped from his house is unbelievable. They have been falsely implicated in the case. They are ready to abide by any conditions. They are in judicial custody and their presence for further investigation is not required. On the said grounds they have sought for granting bail.

9. Objection of the prosecution is that accused persons in the case have committed the

alleged offences and if the petitioners are released on bail, there is possibility of the petitioners destroying the evidence and threatening the prosecution evidence and absconding from the trial and not being available for investigation and since the offences are non-bailable in nature, bail petition for Regular bail should be rejected.

10. I have perused the records.

11. Petitioners have produced certified copy of FIR and also complaint lodged by the informant. According to the complaint lodged by the informant on 28.01.2020 at 21 hours, it is alleged that Accused No.1 and his four friends came to informant's house and forcibly took him in an auto rickshaw to an isolated area somewhere nearby Hoskote and by posing threat they made him to say as they instructed

and took video of the same and also they took Rs.40,000/- through Google Pay and then brought him back home and took Rs.20,000/- from womenfolk of his family and also two mobile phones. So, incident has taken place on 27.01.2020, but, the complaint is lodged on 28.01.2020 at 21 hours. In the FIS it is stated that on 27.01.2020 itself at 3.40 PM he was brought back to the home. Address given by the informant shows that he resides in second floor in a room in a building situated at Virajnagar, K.R.Puram. There is inordinate delay in lodging the complaint and also complaint allegations do not inspire confidence about the manner in which the crime is alleged to have been committed. Though the offence u/s.364A of IPC is triable by the court of Sessions, having regard to the nature of allegations, I am of opinion that

this is a fit case to grant an order of Bail to the petitioners, whose name is actually not mentioned in the First Information Report. Petitioners are in judicial custody since 10.02.2020 having been arrested on 09.02.2020. Consequently, Point No.1 is answered in the **affirmative.**

12. Point No.2: On the above findings, I proceed to pass the following:-

O R D E R

The petition filed by Petitioners 1 to 3 under Sec.439 of the CR.P.C **is hereby allowed.**

Petitioners/accused in Crime No. 46/2020 of K.R.Puram Police Station, Bengaluru, are hereby enlarged on bail for the offences u/ss.506, 448,

364A, 365 read with Sec.34 of the IPC,
subject to the following conditions:

1) Petitioners shall give attendance before the I.O on every alternative Sunday of the month between 10 a.m. and 2 p.m. till the Final Report/Charge sheet is filed.

2) Petitioners shall not threaten the prosecution witnesses or tamper with the prosecution evidence.

3) Petitioners shall co-operate in the investigation of the case.

4) Petitioners shall not abscond from the trial.

5) Petitioners shall execute personal bond for a sum of Rs.50,000/- each with one surety in like sum to the satisfaction of the Learned 10th Additional Chief Metropolitan Magistrate, Mayo Hall Unit, Bengaluru.

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(Dictated to the Stenographer, transcribed by him and computerized and then corrected and pronounced by me in the open court on this the **20th day of February, 2020**)

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(D.S.VIJAYA KUMAR)
XXVI Addl.CC & SJ, Mayo Hall Unit
Bengaluru.