

**IN THE COURT OF THE XXVIII ADDL. CITY CIVIL  
& SESSIONS JUDGE  
Mayo Hall, Bengaluru, [CCH.NO.29]**

**Present: - Smt. B.S. Bharathi, B.Sc., LL.B.,**

**Dated: This the 24<sup>th</sup> day of February 2020**

**Crl.Misc.No.25135/2020**

**Petitioner :** Smt. Jayashree w/o. Shivanna,  
Age: 50 years, r/at No.31,  
4<sup>th</sup> Cross, Flower Garden,  
Near Promise Center,  
Babusab Palya, Kalyan Nagar Post,  
Bangalore-560 043.

(Pleader By : T.G.Suresh, Advocate.)

.. Vs ..

**Respondent:** The State of Karnataka by  
Ramamurthynagar Police Station,  
Bengaluru.

(By Public Prosecutor)

**ORDER**

This Petition is filed by the petitioner against the Respondent U/Sec. 438 of Cr.P.C., praying for releasing him on bail in Crime No.141/2018 (PCR No.56541/2016) for the offences punishable under Section 415, 417 and 420 of IPC.

2. According to the petitioner, the complainant by name Sri R.A.Srinivasa Reddy has given complaint against the petitioner stating that, the petitioner approached the complainant during the month of February 2015 and offered to sell the said property for a valuable consideration of Rs.34,50,000/- and further the complainant had come forward to purchase the same and entered into an Agreement of sale dt.18-2-2015 and the petitioner had received a total amount of Rs.13,00,000/- from the complainant towards part consideration. It is submitted that, the petitioner had assured the complainant that, she will execute a regular sale deed in favour of the complainant. On 10-1-2016 when the complainant approached the petitioner requested to get the sae deed registered in his name, but the petitioner refused to register the sale deed in favour of the complainant and postponed the same. On 3-2-2016, when the complainant went to meet the petitioner, he has noticed that some other persons were extending and building a house in the first floor of the property. When the complainant questioned them, they informed the

complainant the property was sold the property to them. Hence, he has filed complaint against the petitioner on 5-2-2016. Police have failed to take action, hence he has filed private complaint u/secs. 415, 417 and 420 of IPC against the petitioner, and same was numbered as PCR.No.56541/2016 and on referring the matter for investigation police have registered case in Crime No.141/2018 against this petitioner and according to this petitioner, he is innocent of the alleged offences and he is ready to abide by any conditions imposed by this court and hence prays for allowing the petition on several other grounds.

3. PP has filed objection contending the facts stated in the petition and stating that, if the petitioner is released on bail it is likely that the he may tamper the prosecution witnesses and flee from jurisdiction of this court. Hence prays for dismissing the petition on several other grounds.

4. Basing on the above said facts following points that arise for my consideration are:

“Whether the Petitioner has made out ground for granting anticipatory bail under Section 438 Cr.P.C.,?”

5. Heard both the sides.

6. My findings on the above point is in the Affirmative for the following:-

**REASONS**

7. On perusal of the nature of offence alleged against the petitioner it is clear that, it is alleged in the complaint that, this petitioner has promised to execute sale deed to the complainant and received valuable consideration of Rs.13,00,000/- from the complainant and entered into an agreement dt.18-2-2015 agreeing to sell the property for Rs.34,50,000/-, but he has not executed sale deed. Therefore, it is clear that, even though the offence alleged the petitioner is not only a civil in nature, but also it attracts criminal offence of cheating, I feel that, custodial enquiry of the petitioner is not necessary for investigation of this case. Hence, I feel it necessary to release the petitioner by imposing conditions in all to cover the apprehension of the Public Prosecutor since the

offences alleged against the petitioner are not punishable with death or imprisonment for life. Hence I feel that, petitioner has to be released on bail by imposing conditions in order to cover the apprehension of the public prosecution. Hence, I answer point No.1 in the Affirmative.

8. In view of answering Point No.1 in the affirmative, I pass the following:

### **ORDER**

The Petition filed by the Petitioner under Sec.438 Cr.P.C., is allowed.

The Petitioner is ordered to be released on bail on his executing personal bond for a sum of Rs.1,00,000/- with one surety for the like sum in the event of his arrest by the respondent police in Crime No.141/2018 (PCR No. 56541/2016) for the offences punishable under Section 415, 417 and 420 of IPC registered against him on the following conditions:-

i. The Petitioner shall surrender before the Jurisdictional Court within a period of one month and

furnish the bail and surety as per this order.

ii. The Petitioner shall not threaten the complainant and shall not tamper the prosecution witnesses directly or indirectly.

iii. The Petitioner shall not repeat similar offences in future.

iv. The Petitioner shall produce his passport size photograph with the address proof and also of the surety to the satisfaction of the Jurisdictional Magistrate and the I.O.

v. The Petitioner shall appear before the I.O once in 15 days preferably on a Sunday between 10-00 am to 2-00 pm till the filing of the final report or for the period of three months whichever is earlier.

[Dictated to the Judgment Writer, the same was transcribed and typed by him and thereafterwards correct, signed and pronounced by me on 24<sup>th</sup> day of February 2020].

**[B.S. Bharathi],**  
XXVIII. Addl. City Civil Judge,  
Mayo hall, Bangalore.

***Order pronounced in the  
open court (Vide separate  
order).***

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**[B.S. Bharathi],**  
XXVIII. Addl. City Civil Judge,  
Mayo hall, Bangalore.