



THE COURT OF THE III ADDL. DISTRICT AND SESSIONS
JUDGE, MANDYA (SITTING AT SRIRANGAPATNA)

Dated: 9th day of November, 2022.

Present: Sri.GOPALKRISHNA RAI T., B.A., L.L.B.,
III Additional District & Sessions Judge,
Mandya, (Sitting at Srirangapatna)

Criminal Miscellaneous No.5409/2022

Petitioner : Manukumar S/o Govindashetty,
Aged about 50 years,
R/o: Gananguru Village,
K.Shettahalli Hobli,
Srirangapatna Taluk,
Mandya District.

**(By Sri.S.Manjunath.,
Advocate)**

Vs.

Respondent State by Pandavapura Police
Station.

**(Rep. by Smt. M.K.Prapulla, Public
Prosecutor).**

O R D E R

The present Bail Petition is filed by the Petitioner under Section 438 of Cr.P.C seeking for an Order of Anticipatory Bail in the event of his arrest in Crime No.441/2021 of the respondent police station for the offences punishable U/Sec. 341, 323, 327, 504, 506 r/w 34 of IPC.



2. In the Bail Petition it is contended that the petitioner is innocent and not committed the alleged crime. The petitioner hails from respectable family and he is law abiding citizen. The offences alleged against the petitioner are not exclusively punishable with death or imprisonment for life. The petitioner is permanent resident of address shown in the cause title of the petition and as such he will not abscond or flee away from justice in case of grant of bail. The petitioner strongly apprehend his imminent arrest by the respondent-police in Crime No. 441/2021 and hence he has been constrained to file this petition for anticipatory bail. The petitioner is ready to co-operate with the I.O during investigation and he is ready to abide by any conditions that may be imposed by the Court and he is ready to offer surety as ordered by this Court. Inter-alia, on these grounds the petitioner prays for allowing of the Bail Petition.

3. Per contra, the learned Public Prosecutor in her objection has contended that, the petitioner has committed the alleged crime. The offences alleged against the petitioner are heinous and non-bailable in nature. Among the offences alleged against the petitioner the offence U/Sec. 327 of IPC is punishable with imprisonment which may extend to 10 years and also fine. The case is still at the stage of investigation. No genuine grounds have been made out for grant of anticipatory bail to the petitioner. If at



this stage, the petitioner is enlarged on anticipatory bail, he may tamper the prosecution witnesses or he may abscond by violating the bail conditions. Inter-alia, with these contentions, the Learned Public Prosecutor prays for rejecting of the Bail Petition.

4. Heard both sides. Perused the material on record.
5. On the basis of material on record, the following Points arise for my determination:
 1. Whether there are sufficient grounds to enlarge the petitioner on anticipatory bail?
 2. What Order?
6. My findings on the above Points are as follows:
 - Point No.1 - In the **Affirmative**,
 - Point No.2 - As per final order, for the following:

REASONS

7. **Point No.1:-** The case was registered before the respondent Police Station on 21.10.2021 in Cr. No.441/2021 against the accused No.1 to 3, for the alleged offences punishable under Section 341, 323, 327, 504, 506 r/w 34 of IPC on the basis of the complaint lodged by the complainant Shashikumara N.



8. The sum and substance of the FIR is that the complainant and accused Manukumar being friends, were engaged in getting Hitachi for rent and the accused had to pay advance amount to Hitachi owner and accordingly he has taken a sum of Rs.3,50,000/- from the complainant. Though the complainant demanded the sum, the accused did not repay the same. Hence, based on old ill-will on 20.10.2021, the accused has called the complainant near KRSTC bus stand, Pandvapura pretending that he will pay the amount. When complainant gone to the spot at 5-30 p.m. accused Manukumar along with others have abused him, dragged and assaulted him on his person and Soma and another person kicked by legs. One Sathisha and Govindaraju have pacified the quarrel. While leaving the place the accused and others have threatened to do away his life and snatched mobile and half piece of neck chain of the complainant. Accordingly, complainant has filed the complaint, based on which a criminal case has been registered.

9. The offences in respect of which the petitioner seek anticipatory Bail are not exclusively punishable with death or imprisonment for life. Further, the same are exclusively triable by JMFC.

10. Since the petitioner has undertaken to co-operate



with the I.O., during investigation even if the petitioner is granted with anticipatory bail, the I.O., can still hold investigation. In addition to it, imposition of suitable conditions would enable the I.O. to subject this petitioner to the process of interrogation if required.

11. It is presumed that the accused is innocent until the guilt is proved beyond all reasonable doubts, in full fledged trial by the prosecution. Until then it is not proper to put the accused in jail as a measurement of pre-trial punishment. On this score also it is proper to exercise judicial discretion provided U/Sec. 438 of Cr.P.C.

12. It is settled position of law by the catena of decision of Hon'ble Apex Court and various High Court that the bail is the rule and jail is an exception and securing the presence of accused for trial and protection of witnesses from tampering are main consideration at the stage of granting bail.

13. The petitioner claims to be the permanent resident of address shown in the cause title of the Bail petition. It is urged that the petitioner is ready and willing to furnish surety to the satisfaction of this Court to ensure his attendance before the I.O and the Court and he is also ready



to abide by any conditions imposed by Court. As such, possibility of the petitioner remaining absconding is too remote.

14. The apprehension and interest of the prosecution that the petitioner may tamper with the prosecution witnesses or he may abscond can be taken care and safeguarded by imposing some suitable conditions. Hence by considering all these aspects, I am of the opinion that the petitioner is entitled for Bail and accordingly, I answer the above Point No.1 in the **Affirmative.**

15. **Point No.2:** In view of my findings on Point No.1, I proceed to pass the following:

ORDER

The anticipatory bail petition filed by the petitioner under Section 438 of Cr.P.C is hereby allowed.

The respondent-police is hereby directed to release the petitioner on anticipatory bail in the event of their arrest in Cr. No.441/2021 on execution of his personal bond for Rs.50,000/- with one surety for the like sum subject to the following conditions.



1. The Petitioner shall appear before the I.O. within 10 days from today and co-operate with him during investigation.
2. He shall not indulge into the acts similar to one alleged against him.
3. He shall not threaten the complainant or prosecution witnesses in any manner.

(Dictated to the Judgment Writer, transcribed and computerized printout taken thereof is corrected, signed and then pronounced by me in Open Court on this the 9th day of November, 2022).

(Gopalkrishna Rai T)
III Addl. District & Sessions Judge,
Mandya Sitting at Srirangapattana.

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