

**IN THE COURT OF THE III ADDL. DISTRICT AND
SESSIONS JUDGE, RAMANAGARA**

:PRESENT:

Sri.Gopal Krishna Rai T., B.A.(Law), LL.B.,
III Addl. District and Sessions Judge,
Ramanagara.

Dated this the 22nd day of February 2019

S.C.No.77/2016

Accused No.7:

Mohammed Babu,
S/o. Late Mohammed Hussain,
Aged about 36 years,
R/at Near Alpahat School,
Near Shoba Tent House,
Bapoojinagara, Bengaluru.

(By Sri.R.S., Adv.)

– V/s. –

Complainant:

State of Karnataka by
Magdi Police Station,
Ramanagara Dist.

(Rep. Public Prosecutor, Ramanagara)

ORDERS ON BAIL APPLICATION FILED BY THE
ACCUSED No.7

Accused No.7 has filed the bail application u/s 439 of Cr.P.C.

2. **Brief facts :-**

Accused Nos.1 to 5 with the previous enmity with Nadeem Pasha in respect of a dispute of Gomal land bearing Sy.No.48, Thirumale Village, Magadi Town, have planned to commit his murder. Accordingly, on 14.05.2016 accused No.1 brought him to Nayandahalli in his motorcycle, thereafter took him in his auto-rickshaw bearing No.KA-05-AF-6562 along with accused Nos.7 to 9 to go to Magadi. Thereafter, accused No.1 has also received his followers i.e., accused Nos.2 to 6, in Chetak scooter accused Nos.4 and 5 came and in Active Honda scooter accused Nos.8 and 9 came. On the way, said Nadeem Pasha has got doubt and shouted. Accused by showing the dragon and other weapons have threatened to do away his life there itself. Being afraid of, Nadeem Pasha kept quite and they took him near Honnapura

Tank, in a open space behind the temple, accused Nos.1 to 6 with the help of dragon and other weapons stabbed him and killed him. They have also destroyed the evidence of offence.

3. Grounds :-

He is innocent of the offence alleged. The police have foisted a false case against the accused colluding with the complainant and others who are inimically disposed towards him in the locality. He has obtained bail from the Hon'ble High Court of Karnataka and he was regular in appearing before the court. His wife has borrowed loan of Rs.20,000/- from accused No.1 for his release. After his release, accused No.1 and his wife were threatening with dire consequences if they fail to give the amount. Hence, remained absent before the court. He is ready and willing to abide by any conditions and offer surety to the satisfaction of the court. He is a peace loving and law abiding citizen and permanent resident of the address given in the cause-title. Hence, prayed for bail.

4. Objections :-

The bail application is not maintainable and same is liable to be dismissed. He has jumped the conditions imposed at the time of grant of bail. His absence has caused delay in disposing of the matter at the earliest. Hence, prayed to reject the bail application.

5. Heard the arguments of Sri.R.S., advocate for the accused No.7 and learned PP for the State.

6. Now the points that are arisen for the due consideration of this court are:

1. Whether the accused No.7 has made out sufficient grounds to grant bail?
2. What order?

7. My findings to the above points are:

Point No.1: In the **Negative**,

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

REASONS

8. **Point No.1:** The offence alleged against the accused No.7 is punishable u/s 302 and 201 of IPC. During the course of investigation, this accused No.7 has secured bail in Crl.Petition No.8586/2016 clubbed with Crl.Petition No.9029/2016 from the Hon'ble High Court of Karnataka as per its order dated 05.01.2017. The Hon'ble High Court of Karnataka has granted bail subject to conditions. The condition No.2 reads as follows:

“They shall mark their attendance before the respondent-Investigating Officer on every alternative Tuesday during the office hours till the conclusion of trial.”

9. It is not the contention of the accused No.7 that he has complied the orders of Hon'ble High Court of Karnataka and appeared before the Investigating Officer on every Tuesday. Thus it is prima-facie clear that the accused herein has violated the conditions imposed by the Hon'ble High Court of Karnataka. Therefore, on this score alone, he is not entitled for discretionary relief of bail.

10. The perusal of the ordersheet would show that this accused has remained absent before this court from 29.11.2017. There afterwards, this court has not only issued process of NBW through CPI, Dy.S.P., but also S.P., Ramanagara. Ultimately the PSI of Magadi police station has requested the court to direct the Deputy Director, UIDAI, Regional Office, Khanija Bhavan to furnish Adhaar information of this accused No.7. There afterwards, this court has issued directions to Deputy Director, UIDAI to furnish Adhaar number of accused No.7. Thus it is clear that the police at Magadi have made their sincere efforts to arrest this accused. On coming to know about the action taken by the police at Magadi, this accused No.7 has surrendered before this court and moved for bail. Thus it is clear that the absence of this accused has come in the way of the court in proceeding further in the lines of conducting trial. This is yet another circumstance which disentitles accused No.7 from seeking bail.

11. In his bail application, accused No.7 has contended that his wife has taken loan of Rs.20,000/- from accused No.1, but they failed to repay and hence, accused No.1 was trying to kill him and due to the harassment of accused No.1, he remained absent before this court. That contention of accused No.7 is cannot be accepted as gospel truth. It is relevant to note here itself that during the pendency of the trial, accused No.1 was murdered. However, that aspect of the matter will not come to the aid of the accused No.7 to seek discretionary relief of bail contemplated u/s 439 of Cr.P.C.

12. From the meaningful reading of material evidence placed on record, it is crystal clear that without being reasonable cause, accused No.7 remained absent and his absence has come in the way of this court in disposing of the case of the year 2016. Therefore, this court is of the opinion that the accused No.7 has not made out any grounds much less good grounds to grant bail. Accordingly, point No.1 is answered in the **Negative**.

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

ORDER

The bail application filed by the accused No.7 under Section 439 Cr.P.C., is hereby rejected.

(Dictated to the Stenographer, thereof transcribed by her, then corrected, signed and pronounced by me in open court on this the 22nd day of February 2019)

(Gopal Krishna Rai T.)
III Addl. District and Sessions Judge,
Ramanagara.