

**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 20th day of January 2020

Crl.Misc.No.25017/2020

Petitioner:

Sunil Kumar,
S/o Dakshina Murthy,
Aged about 39 years,
Residing at No.158,
Rudrappa Garden,
Viveknagar,
Bengaluru.

(Pleader By : P.R.Bhat & Associates)

.. Vs ..

Respondent:

The State of Karnataka by
Viveknagara 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.204/2019 for the offences

punishable under Section 307, 511 r/w Section 34 of IPC and Section 25-1(B)(b)) of Arms Act.

2. According to the petitioner, the Kothanur police have arrested the accused persons namely Sharath, Sunil in crime No.118/2019 punishable under section 454, 457, 380 upon information regarding the other accused person, on 20/09/2019 at about 6.p.m. they also arrested other accused persons namely Aravinda @ Doll, Prakash Raja brought them to the police station and started inquiry about the incident. At that time accused Aravinda stated that there was a enimity between Sunil and Movesh about the area Domination, then he took the help of the Aravinda, Sharath and prakash and in the month of November 2019 brought the long and short choppers and knives to the house. On this information on 20/9/2019 at 22.15 the Kothanur police registered a case in Crime No.138/2019 u/s 307, 511 r/w 34 of IPC and Section 25-1(B)(b) Arms Act. Police have called the Movesh to the police station about the information and took the statement and identified the accused persons

and stated about the enmity between the sunil and him. On 21/09/2019 Kothanur police went to the alleged spot wrote panchanama and seized Articles i.e., Long, Choppers before the Panchas. Since place of the alleged incident is comes the jurisdiction of the Viveknagar police station, Kothanur police took a permission from 11th ACMM transferred the above case to the Viveknagar police. Upon transfer of the above file the Mr.Subramanya Swamy M.L PSI of Viveknagar polices station has registered the above named petitioner along with other accused persons for the offences punishable under section 307, 511, r/w 34 of IPC and Section 25-1((B) (b)) of Arms Act. Upon issuance of NBW against the accused, the respondent police are making hectic efforts to arrest the accused apprehending arrest of the petitioner, who is arrayed as accused No.1. He is innocent of the alleged offences and prays for granting anticipatory bail. According to the Petitioner he is ready to abide by any conditions imposed by this Court. He is innocent of alleged offences.

4. PP has filed objection to this petition contending that the offence alleged against petitioner is heinous in nature. The police have also seized deadly weapons and if the petitioner is released on bail, it is likely that he may tamper the witnesses and involve in other cases. Hence prays for the rejecting the bail application, relaying on judgment of Hon'ble supreme court reported in 1991 Crl.LJ Page 3205 between Narasimhamurthy V/s State of Karnataka and 1991 Crl.LJ 1298 between BMP Ramesh V/s State of Karnataka.

5. 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.,?”

6. Heard both the sides.

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

REASONS

8. In this case, nobody is assaulted and nobody is injured. As per the averments of the complaint this

Petitioner and other accused were possessing the deadly weapons like sickle, long and knife with an intention to murder Umesh on account of old enmity for area domination and police have already seized the above said deadly weapons from this Petitioner from the Petitioner's house at Viveknagar. However, when police have already siezed the weapons and so far no person is hurt by the assault of this Petitioner and others, the case is registered against the accused for the offence under Section 307 IPC also, I feel that the custodial enquiry of this Petitioner is not necessary and the Petitioner can be released on bail by impositing conditions in order to cover the apprehension of the PP. Hence, I answer point No.1 in the Affirmative.

9. 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 solvent surety for the like sum in the event of his arrest by the respondent police in Crime No.204/2019 for the offences punishable under Section 307, 511 r/w Section 34 of IPC and Section 25-1(B)(b)) of Arms Act 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 Stenographer on 20.1.2020 thereafter, the same was transcribed and typed by the Stenographer and thereafter correct, signed and pronounced by me on 20th day of January 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.