

**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 9th day of January 2020

Crl.Misc.No.25009/2020

Petitioner: Mr. N. Venkateshappa @
Ivarappa,
S/o Late Narayanappa,
Aged about 55 years,
Maravathur Village,
Javani Palli,
V. Kota Mandal,
Chitoor District-517424.
Andhra Pradesh.

(Pleader By : Sri. J. Prabkar & Tony Mari Raj)

.. Vs ..

Respondent: The State of Karnataka by
Vivek Nagar Police Station,
Bengaluru.

(By Public Prosecutor)

ORDERS

This petition is filed by the Petitioner under Section 439 of Cr.P.C., praying for enlarging him on anticipatory bail in Cr.No.182/2019 of Viveknagar Police

Station for the offences punishable under Section 395, 120B of IPC.

2. According to the Petitioner, the Complainant has given complaint stating that on 26.11.2019 when he was coming to Domlur towards India Garage near ASC Centre Gate, the Complainant bike met with accident with another bike and complainant fell down at 5.25 p.m., in the evening. The public around 7-8 members gathered and made complaint to sit on footpath. After sometime when the complainant saw his bike it was missing. The complainant thought someone who came to help him as public stolen his bike bearing Registration No.KA-03-HG-1835. Basing on the above said complaint the police filed an FIR under Section 379 IPC in Cr.No.182/2019. The accused No.3 to 6 were arrested on 5.12.2019 and produced on 6.12.2019 before 29th ACMM, Mayohall, Bangalore and sent to custody on 9.12.2019. The accused No.1 and 2 are still absconding. Again the complainant on 7.12.2019 went to Respondent police station and gave another

statement saying that on 26.11.2019 when his bike was stolen at 5.25 p.m., there was Rs.4,06,147 /- in his bike dickey. Later on, the respondent police again on 9.12.2019 took the accused persons to police custody and produced again on 11.12.2019 before 29th ACMM. While producing the accused persons they changed the section to 395 and 120B of IPC. The accused persons were remanded to judicial custody till 18.12.2019. Even though police have filed FIR under Section 379 initially basing on the complaint, after the second statement the police has changed the section to 395 and 120B IPC. The police have seized Rs.21,100/- from Accused No.3 Venukumar, Rs.2,100/- from Accused No.4 Dharamaraj, Rs.12,400/- from Accused No.5 Ricky Richard and Rs.11,600/- from Accused No.6 Pavan Kumar.

3. According to the petitioner, basing on the recovery made from the accused the complainant has given further statement that he has misplaced Rs.4,06,147/- cash on that day even though no amount

was there and same was not mentioned at the time of giving complaint. The petitioner is innocent of the alleged offences. He is ready to abide by the conditions imposed by this Court. He prays for release them on bail. Hence, prays for allowing the petition.

4. The Prosecution has filed objections to this petition contending the facts stated in the complaint and also stated that if the accused is released on bail he may tamper the witnesses and abscond from the jurisdiction of the Court and prays for dismissing the petition on several other grounds.

5. Heard, both the sides.

6. 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.,?”

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

REASONS

8. According to the Petitioner, he is innocent of the alleged offences and the Petitioner is ready to abide by any condition imposed by this Court and hence, I feel that the apprehension of the Prosecution can be covered by imposing conditions since the offences are not punishable with death or imprisonment for life. 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.50,000/- with one surety for the like sum in the event of his arrest by the respondent police in Cr.No.182/2019 for the offences punishable under Section 395 and 120(B) 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 Stenographer on 9.1.2020 thereafterwards, the same was transcribed and typed by her and the same was correct, signed and pronounced by me on 9th day of January 2020].

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

Orders pronounced in open court
as under (vide separately):-

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

