

C.C NO: 409 / 2016

ORDERS ON 437 APPLICATION OF
ACCUSED NO.1

Accused no.1 is in Judicial Custody.

Sri. M.N. advocate for accused no.1 filed M.A. along with application U/s-437 Cr.P.C and application U/s-70(2) of Cr.P.C. on 03-02-2020 and stating that, the false case has been foisted against him, the offences alleged are punishable under sections-392 and 506 of I.P.C. are non bailable in nature, but not punishable with death or imprisonment for life, the alleged offence is triable by this court, he has not committed any offence. He is the permanent resident of address shown in the charge sheet and that he is the law abiding citizen and he is innocent and due to his remand to the judicial custody, he has been put to untold hardship and difficulties. He is in judicial custody from 18-02-2020, he is ready to bound by the conditions,

hence sought for allowing the application.

The learned A.P.P. has filed her objection, stating that there are number of cases are pending against him i.e., CC NO.406/2016 and CC NO.407/2016 wherein it is contended that if the accused no.1 is released on bail, he may involve in similar offences and thereby disturb the public peace and may also jump on bail and may not appear for trial and the same may leads hamper the trial and investigation, Hence prays for dismissal of the application.

Heard arguments.

In view of the above facts and materials, the point that arises for my consideration is:

Whether the bail application filed by the accused deserves to be allowed?

My findings to the above points is in the affirmative for the following ;

REASONS

It is the allegation of the prosecution that the accused no.1 committed the offence punishable under sections-392 and 506 of IPC among the above said offence section-392 of IPC is non bailable in nature. The offence alleged against the accused are though non bailable in nature, but not punishable with death sentence or imprisonment for life and the same is triable by this court only.

However, at this stage of the case the merits of the case need not be taken into consideration. In the present case the guilt of the accused in the alleged incident is matter of proof to be proved only after full-fledged trial. Further the accused is in judicial custody from 18-02-2020. Accused no.1 is the permanent resident shown in the charge sheet. Further, the accused no.1 is ready to abide by the conditions which may be imposed by this court. Having regard to these facts and circumstances

of the case, I hold that the accused is entitled for bail.

However, the prosecution has expressed many apprehension, which may happen in the event of release of the accused on bail. But in my view, if the stringent conditions are imposed on the accused while releasing him on bail to ensure his presence can be secured at the time of trial, then the apprehension of the prosecution can be set at reason with this observation, I hold that point no.1 in the “affirmative” and proceed to pass the following :

ORDER

The application filed by accused no.1 U/s-437 of Cr.P.C. is hereby allowed, subject to following :

CONDITIONS

1. Accused no.1 shall execute personal bond for a sum of 1,00,000/- and shall also furnish two sureties for the like sum.
2. He shall not tamper any of the prosecution witnesses, directly or indirectly;

3. He shall regularly appear before the court in all the date of hearing for early disposal of case.
4. He shall not leave the jurisdiction without the leave of the court.
5. He shall not commit any other offences.
6. If any one of the above conditions is violated, the bail and surety bond is automatically stands canceled.

Counsel for accused no.1 present and prays time to furnish surety.

Call on hearing date by 29-02-2020.

{ Latha J }
Addl. Civil Judge & JMFC.,
Magadi 25-02-2020.