

**IN THE COURT OF THE LXII ADDL. CITY CIVIL AND
SESSIONS JUDGE, BENGALURU CITY [CCH.63]**

Dated : This the 4th day of June, 2019.

: PRESENT :

Sri R. ONAKARAPPA, B.Sc., L.L.B.,
LXII Additional City Civil & Sessions Judge,
Bengaluru City.

Crl. Misc. No.4594/2019

Petitioners :

1. **Irudayaraj @ Rajan,**
S/o James,
Aged about 40 years,
2. **Theresa,**
W/o Hrudayaraja,
Aged about 32 years,
R/at # 3/2, 2nd Cross,
2nd Main, Vinayakanagar,
Bengaluru-560 030
3. **Harike Mary,**
W/o Rangappa,
Aged about 60 years
4. **Appu,**
S/o Ranappa,
Aged about 60 years,
R/at # 5, 2nd Cross,
Vinayakanagar,
Shanthinagar,
Bengaluru -560 030.
5. **Dhanalakshmi,**
W/o Appu,
Aged about 34 years,
Both are R/at # 86, Shanthinagar
Slum,
Shanthinagar, Bengaluru
[By : Venugopal C N, Advocate]

Vs.

Respondent : The State of Karnataka,
By Wilson Garden Police station,
Bengaluru.
[By : Public Prosecutor]

ORDER

The present bail petition under Section 438 of Cr.P.C., has filed by the petitioners for an order of anticipatory bail in the event of their arrest in Crime No.68/2019 of respondent Police Station for the alleged offences punishable under Sections 341, 504, 143, 323, 380 and 324 read with section 149 of IPC, pending on the file of learned 6th A.C.M.M., Bengaluru.

2. In the bail petition it is contended that the petitioners are innocents and they have not committed the alleged offences. They have been falsely implicated in the case on hand. The respondent Police are making hectic efforts to arrest the petitioners and hence, on genuine apprehension of their imminent arrest by the respondent Police, the petitioners have been constrained to file this petition for anticipatory bail. The petitioners are permanent residents of their addresses shown in cause title of the petition and they have got permanent abode and as such they will neither abscond nor delay the proceedings in case of grant of bail. The petitioners are ready to co-operate with the I.O. during investigation and they are also ready and willing to abide by any conditions that may be imposed by the Court and the petitioners are ready to furnish surety to ensure their regular attendance before the concerned Court. Inter alia, on these grounds, the petitioners pray for allowing of the bail petition.

3. Whereas, the learned Public Prosecutor filed objection by contending that the investigation so far as

made by the I.O., reveals that the petitioners have committed the offences punishable under Sections 341, 504, 143, 323, 380 and 324 read with section 149 of IPC. Now the investigation is in preliminary stage, if at this stage, the petitioners are granted with anticipatory bail, the petitioners may threaten the prosecution witnesses and they may destroy the prosecution evidence or they may commit the similar kind of offences and the possibility of petitioners fleeing away from justice cannot be ruled out. Inter alia, on these grounds, the learned Public Prosecutor prays for dismissing of the bail petition.

4. Heard both sides. Perused the record.

5. Following points arise for consideration of this Court:

1. Whether the petitioners have made out substantial or reasonable ground to enlarge them on anticipatory bail under Section 438 of Cr.P.C.?

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** :- FIR registered in Crime NO. 68/2019 by the respondent Police station on 30.04.2019 for the offences punishable under sections 341, 504, 143, 323,

380 and 324 read with section 143 of I.P.C. on the basis of the complaint lodged by one Chudamani.

8. In the Police complaint it is alleged that the complainant being the owner of the house, she let the house to 1st petitioner on rental basis. On 16.04.2019 at 9.30 pm while at the time of fixing the motor to water sump the first petitioner came and quarreled with the complainant by framed unlawful assembly by holding dangerous weapons cause threatened and abused in a filthy language all other allegations. Accordingly the complainant lodged complaint against the petitioners.

9. The learned counsel for the petitioners and learned Public Prosecutor have argued as per their contentions taken in their respective petition and objections.

10. I have carefully perused the contents of bail petition, documents produced along with it and objection filed by the learned Public Prosecutor.

11. The offences alleged against the petitioners are not exclusively punishable with death or imprisonment for life.

12. Since the petitioners have undertaken to co-operate with the I.O., during investigation, even if the petitioners are released on bail, I.O., can still hold investigation.

13. It is settled law by the catena of decisions that ***“the accused is to be presumed as innocent until guilt is proved by the prosecution beyond all reasonable doubts in full-fledged trial by discharging its burden of proof. Until then, it is not just and proper to put the accused in jail as a measurement of punishment in the pre-trial stage.”*** It is settled position of law by the Catena of decisions of Hon’ble Supreme Court and various High Courts that ***“securing the presence of the accused for trial and protection of witnesses form tampering are the main considerations at the stage of granting bail.”***

14. The petitioners claim to be the permanent residents of addresses shown in the cause title of the petition. It is urged that the petitioners are ready and willing to furnish surety to the satisfaction of this Court to ensure their regular attendance before the concerned Court and they are also ready to abide by any conditions imposed by the Court. As such, the possibility of abscondance of petitioners is too remote.

15. The apprehension and interest of the prosecution that the petitioners may tamper with the prosecution witnesses, flee away from justice, can be taken and safeguarded by imposing some suitable conditions. Hence by considering all these aspects, I am of the opinion that the petitioners are entitled for bail and accordingly, I answer the above point in affirmative.

16. **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 petitioners under Section 438 of Cr.P.C., is hereby allowed.

The respondent police are hereby directed to enlarge the petitioners on anticipatory bail in the event of their arrest in Crime No. 68/2019 of respondent Police station for the offences punishable under Sections 341, 504, 143, 323, 380 and 324 read with section 149 of IPC, on the file of learned 6th Addl. Chief Metropolitan Magistrate, Bengaluru, on execution of their personal bonds for a sum of Rs.50,000/- each with one surety for the like sum, on the following conditions:

1. The petitioners shall join investigation and co-operate with I.O., for investigation.
2. The petitioners shall not tamper with the prosecution evidence or influence the prosecution witnesses directly or indirectly in any manner.
3. The petitioners shall not indulge with offences of like nature.
4. The petitioners shall execute personal bond for a sum of Rs.50,000/- each and furnish one surety for like sum before the concerned Court within one month from the date of this order.
5. In case, if the petitioners violate any of the above mentioned conditions, the

prosecution is at liberty to move an application in such cases for cancellation of bail.

(Dictated to the Stenographer, transcribed and computerized by him, printout taken thereof is corrected, signed and then pronounced by me in open Court on this the 4th day of June, 2019)

(R. ONKARAPPA)

LXII Addl. City Civil & Sessions Judge,
Bengaluru City.