

**IN THE COURT OF LXVII ADDL CITY CIVIL AND
SESSIONS JUDGE; BENGALURU CITY (CCH.No.68)**

PRESENT

**SRI.K.SUBRAMANYA, B.Com., LL.M.
LXVII ADDL CITY CIVIL & SESSIONS JUDGE,
BANGALORE**

Dated this the 8th day of September 2020.

Crl.Misc.No.4229/2020

PETITIONER : Raju @ Psychopoma,
S/o.Rangaswamy,
23 years,
R/at.No.1185, 12th Main,
4th Cross, Raghavendra Block,
Shrinagara,
Bengaluru.

(By Sri.S.R.B., Advocate)

.Vs.

RESPONDENT : State by
Byatarayanapura Police,
Bengaluru.

(By learned Public Prosecutor)

ORDER ON BAIL PETITION FILED U/S.439 OF Cr.P.C

The learned counsel for the petitioner has filed this petition under Section 439 of Cr.P.C., to enlarge the petitioner on bail in Crime No.71/2020 of the respondent-

Byatarayanapura Police Station, Bengaluru registered for the offence punishable under Sections 143, 147, 148, 302 and 120(B) r/w. Section 149 of IPC, pending on the file of learned XXXI Addl. C.M.M., Bengaluru.

2. Brief facts of the complaint are as under:

It is alleged that the complainant is residing along with her family members and she know the deceased and the accused Nos.1 to 3.

On 7.05.2020 at about 11-30 p.m., she heard the galata and then saw the accused No.1 to 3 and others assaulted the deceased with chopper, dragger, razor, etc. The injured died on the spot and she informed the Police Control Room through phone. Hence, this case is registered by the police.

During the course of investigation, the respondent police have apprehended the accused and remanded him to the judicial custody. Hence, this bail petition.

3. The petitioner are arraigned as accused No.6. The petitioner in his petition has stated that he is innocent of the alleged offence and has not committed any offence. He has been falsely implicated in this case. He has got valid and tenable defense. There are no reasonable grounds to believe that he is guilty of the alleged offence. No recovery

has been made from his possession. The accused No.7 was already enlarged on bail and hence, sought for bail on the ground of parity. The Investigating Officer has already laid the charge sheet. He is the sole bread earning member in his family. He is permanently residing along with his aged mother. If he is continued to be detained behind the bars, his entire family will be put to greater hardship. He is ready and willing to abide by the terms and conditions those going to be imposed by this court and ready to offer surety to the satisfaction of the court, if he are enlarged on bail. Hence, sought for allowing the bail petition.

4. The learned Public Prosecutor has filed objections and reiterated the complaint averments and contended that there are prima-facie materials as to the commission of alleged offence. The petitioner in collusion with other accused, has committed the heinous offence of murder and the punishment for the said offence is either with death or imprisonment for life. The petitioner has not assigned any genuine reasons for granting bail. If the petitioner are enlarged on bail, they may threaten the prosecution witnesses, destroy the prosecution evidence and hamper the trial by fleeing away from justice apart from posing threat to the life of the complainant and her family members. Hence, sought for rejection of the bail petition.

5. After hearing the arguments, the points raised for determination are as under:

1. Whether the petition filed under Section 439 of Cr.P.C., is deserves to be allowed at this stage ?

2. What Order ?

6. My findings to the above points are as under:

POINT No.1 : In the Negative,

POINT No.2 : As per the final order,

for the following:

REASONS

7. **POINT No.1** : The fact as to the accused Nos.1 to 3 assaulting the deceased with deadly weapons are all to be established in full fledged trial. In the complaint and FIR, the name of prime accused i.e., Andani, Abhishek and Chethan are cited as accused No.1 to 3. That apart, in further investigation, the Investigating Officer has implicated the name of this petitioner as accused No.6. Here in this case, the complainant even though has not stated the names of the other accused, who have associated in culpable act with accused Nos.1 to 3, the complainant and the sister of deceased Ankitha and Kusuma have identified the accused in the Police Station and further statement was recorded. On perusal of the charge sheet, it

is alleged that the petitioner/accused has used the lethal weapon long so as to cause fatal injuries and in association of the prime accused Nos.1 to 3, they have chased the deceased, who is screaming for help in front of the house of C.W.1/Complainant, they have also stabbed on the vital parts of the body of the deceased. Therefore, the parity ground urged does not in any way applicable to this petitioner.

8. The granting of bail to the accused No.7 on FIR material does not in any way entitle to parity on considering the materials in the charge sheet. This is not a case filed against unknown persons, but it is specifically stated that the accused Nos.1 to 3 along with other accused involved in the alleged offence. The identification of the petitioner/accused is clearly made out by the complainant and the Investigating Officer has to complete the process of identification as per Section 9 of Indian Evidence Act. Therefore, at this stage, it is not just and proper to enlarge the petitioner on bail.

9. It is submitted by the learned Public Prosecutor that the petitioner is having criminal antecedents, which may lead to further perpetration of similar offence. Therefore, the parity ground urged is not in any way justified.

10. There are certain circumstances observed by Their Lordships of Hon'ble Apex Court of India in Crl.Appeal No.1175/2018. The observations therein are considered while passing the order with sufficient reason advertent to the facts and circumstances of this case. It is observed by Their Lordships that the prima-facie case against the accused, the gravity of allegations, position and status of the accused, the likelihood of accused fleeing away from justice and repeating the offence, the possibility of tampering the witnesses and obstructing the courts as well as the criminal antecedents of the accused are the certain factors, that should be taken into account by the court. Therefore, the criminal antecedents and likelihood of tampering the witnesses and nature of absconding are all considered while answer the point for consideration. At this stage, the apprehension of prosecution as stated in the objections may not be ruled out. Moreover, the earlier bail petition filed by the petitioner in Crl.Misc.No.3842/2020 was dismissed by this court vide order dated:29.07.2020. There are no changed circumstances in this subsequent bail petition. Hence, the bail petition deserves to be dismissed. Accordingly, I answer the Point No.1 in the Negative.

11. **POINT No.2** : My finding on this point is as per the following :

O R D E R

The bail petition filed by the petitioner under Section 439 of Cr.P.C, is hereby dismissed.

(Dictated to the Judgment-writer, transcript thereof is corrected and then pronounced by me in the open court on this the 8th day of September 2020)

(K.SUBRAMANYA)
LXVII Addl.City Civil and Sessions Judge,
BENGALURU.

