

**C.C.No.76/2020 (dtd.17/11/2020)**

Accused persons against whom a charge sheet is laid for the offences punishable u/secs. 457. 380 of IPC have moved bail application u/sec. 437 of Cr.P.C. praying to enlarged them on bail for the said offences on the ground that, they are falsely implicated in the present case and the alleged offences are not punishable with death or imprisonment for life and the offences are triable by this Court.

They have also contended that, there is ample material to prove their innocence and they are residents of Chandavar village having permanent abode within the territorial jurisdiction of this Court.

They have also contended that, they are languishing in jail as UTP's for more than 3 months and A-2, Mubasir S/o. Khutubuddin Ghani is infected with COVID-19 virus and he is no confined in a quarantine ward at Karwar District Prison and they are the only earning members in their family.

On the other hand, APP appearing for the State has filed detailed objections opposing their bail application saying that huge recoveries have been made at the instance of the accused persons. The vehicles used while committing the offences on the huge jewelery is recovered and the accused persons are habitual offenders having committed robbery, house break by night and if they are let on bail, they would indulge in commission of similar offences besides tempering material witnesses and fleeing away from justice.

It is also opposed saying that, the offences are Non bailable and if convicted they would command imprisonment upto 14 years. It is also opposed saying that, they have committed similar offences not only in Uttara Kannada Dist. But also the neighboring and adjoining places and they have committed lurking house trespass during night to commit burglary and robbery and they are involved in not less than 10 cases within jurisdiction of this Court and Body warrants are in operation against them in another 10 cases and they were apprehended near Jaddigadde of Kadtoka on the intervening night of

30-07-2020 under suspicious circumstances while they were proceeding on Bajaj Pulser Motor cycle bearing Reg. No.KA-47/K-2856 and they have confessed to have committed similar offences at Kadtoka, Chandavara, Hebbanakeri, Kekkara and Haldipura villages and on the basis of their voluntarily statements, the vehicle used for commission of offences is seized and during the course of investigation, they have also admitted to have committed similar offences at Kumta, Mirjan and other places and the stolen property was pledged at Manapuram Gold Finance and with the goldsmiths, Sandeep Shet, Anil Shet and Nagaraj Shet were recovered by the Police under different mazahars. The state would seriously apprehended that, the accused persons would continue to indulge in commission of similar offences besides feeling away from justice and tampering with the prosecution witnesses hindering trial against them.

I have heard Advocate. Sri K.V.N. for the accused persons and APP appearing for the State and I have also examined the material placed on record.

Accused persons are not first time offenders and they are habitual offenders committed theft, robbery and burglary at more than 9 places and they have decamped with gold jewelery and valuables. More than 9 charge sheets have been laid against them. The stolen properties pertaining to several cases were also recovered along with the vehicle Maruti Ritz Car subjected to P.F.No. 111/2020 along with an iron rod mentioned at Sl.No.2, 3 and the gold ornaments mentioned at Item No.4 was also recovered on the same date. The Bajaj Motor cycle subjected to P.F. No.112/2020 and gold ornaments mentioned in P.F.No. No.113/2020, P.F. No.114/2020 were also recovered on 01/08/2020 similarly, gold ornaments mentioned in P.F. No.115/2020, 116/2020 were recovered on 05/08/2020. Gold ornaments subjected to P.F. No.117/2020 were also recovered on 05/08/2020 at the instance of the accused persons based on the voluntarily statements of the accused persons.

Having regard to the huge recoveries made at the instance of the accused persons and the nature and gravity of the offences they are dis-entitled to seek bail. However, since the investigation is complete and charge sheet is laid against them after completion of investigation. Considering

the fact that Accused No.2 is infected from Corona virus and the offences are not punishable with death or imprisonment for life and they are triable by this Court. If they are allowed to remaining in Jail during this pandemic situation the other inmates of the prison will also be infected.

Having regard to the modus operandi adopted by the accused persons. it is necessary to obtain adequate security while enlarging them on bail. Considering the circumstances of the case and the fact that, the accused persons are released on bail in crime stage in all other 10 cases rule of parity would weigh in favour of the accused persons. For the aforesaid reasons , I pass the following ;

**ORDER**

Accused No.1 and 2 are enlarged on bail on each of them executing personal bonds for Rs.1,00,000/- with two local sureties.

Subject to the condition that, they would forego the benefit of bail if they indulge in any other cases are if any other cases are reported against them during the course of trial and if they fail to appear before the Court on all dates of hearing during trial.

For sureties by 18-11-2020.

Senior Civil Judge & JMFC.,  
Honnavar.