

**IN THE COURT OF THE PRL.DISTRICT & SESSIONS
JUDGE, UDUPI DISTRICT, UDUPI**

Present

Sri C.M. Joshi, B.Sc., L.L.M.

Prl. District & Sessions Judge, Udupi.

Dated this the 24th day of July, 2020

Sessions Case No.6/2020

Complainant:

The State-represented by the learned
Public Prosecutor.

Vs..

Accused:

Sayyed Majar Pasha,
Aged about 23 years,
S/o Sayyed Mehboob Pasha,
C/o Abdul Azeez, 6th Cross,
Tippu Nagar, Shivamogga District,
and Taluk, Permanent address;
B.B. Street, In front of Nal Badkeri
Tree, Shivamogga.

(By Sri P.P.J, Advocate

ORDER

The accused No.1 who is in J.C. has filed this bail
application under section 439 of Cr.P.C. for grant of
bail.

2. The brief facts are as below:

The accused No.1 has filed bail application contending that in Crime No.87/2010 of Kapu Police Station, the accused Nos.1 and 2 have been chargesheeted for the offence punishable under sections 379 r/w. Section 34 of I.P.C. and accused Nos.3 and 4 are facing charges for the offence punishable under sections 413, 414 and 201 of I.P.C. It is contended that the investigation has been completed and charge sheet has been filed and therefore, there is no further custodial detention of the accused. It is contended that the accused No.1 has not committed any such offence as alleged by the prosecution and he has sufficient proof to show that he is innocent and he has been falsely implicated in the case. It is stated that he is resident of Shivamogga District and the allegations made in the complaint are false and baseless. It is contended that on 2-06-2020 father of accused No.1 i.e., accused No.2 died due to heart attack in Hiriadka Prison and he had been granted 3 days parole for attending funeral ceremony. It is stated that he has to perform other rituals and accused No.1 is suffering from various illness and he has also to look after his family and children. Therefore, it is contended that the accused No.1 is ready and willing to abide by any conditions that may be imposed by this court.

3. The bail application is opposed by the learned Public Prosecutor contending that there is prima facie case and there is possibility that he may tamper the prosecution witnesses and abscondance. It is contended that there are many other case against the accused No.1 and he has no other avocation and he is habitual offender and there is possibility that he may indulge in similar offences and abscond and causing impediment for the trial. Hence, it is prayed that the petition may be rejected.

4. I have heard the learned counsel for the accused and the learned Public Prosecutor and perused the records.

5. The only point that arises for my consideration is:

“Whether accused No.1 is entitled for regular bail and if so, on what conditions?”

6. My finding on the above point is in the **affirmative** for the following:

REASONS

7. Kapu Police had registered a case in Crime No.87/2019 on 21-06-2019 on the basis of complaint filed by one Mohammed Rakeeb wherein it was alleged that his Mahindra Pick Up van bearing No.KA-19C-8184, which was

parked by the side of Srinidhi Complex at Katpady on National Highway was stolen on the night on 16-06-2019 and therefore, the same be traced. Later on 19-07-2009 PSI of Kapu and his staff were in Katpady check post and at 00.30 hours on 20-07-2019, an Indica Car came from Udupi side and it was checked, the inmates had no documents of the car, and they did not give proper explanation and therefore, they were interrogated and it was found that they had bunch of car keys in their car. On further investigation and interrogation, they gave voluntary statement stating that they had indulged in theft of vehicles using duplicate keys and they used to change the number plates and sell the vehicle through accused Nos.3 and 4. On the basis of their statement, the vehicle was traced at N.R. Pura of Chickmagalur District and it was sold by a person at Metlupady of Coimbatore. Thus, accused Nos.3 and 4 were also arrested along with accused Nos.1 and 2, they have been chargesheeted for the above said offences. On the basis of voluntary statement of the accused, 11 more cases were unearthed which were registered at Shivamogga, Thirthahalli and Kundapura. Now, it is submitted that the accused has been granted bail in all those cases and therefore, accused

No.1 be granted bail in the present case also. Obviously, the offence alleged against the accused No.1 is for the offence punishable under section 379 of I.P.C. The accused Nos.3 and 4 have been granted bail by this court. The accused No.2 who was none else than the father of the accused No.1 died in the prison a month back. Now, the accused No.1 is seeking regular bail. On careful perusal of the records, I do not find that there is any reason to detain the accused No.1 in the custody as the offence is not punishable with death or imprisonment for life. The other apprehensions expressed by the learned Public Prosecutor may be met with by imposing suitable conditions and custodial detention would be nothing but pre trial punishment. Hence, the above point is answered in the affirmative and the following order is passed:

ORDER

The bail application filed by the accused No.1 is hereby allowed.

The accused No.1 is ordered to be released on bail subject to condition that he executes a personal bond for a sum of Rs.1,50,000/- along with two sureties for the likesum to the satisfaction of this court subject to the following conditions:

1. The accused No.1 shall not leave the jurisdiction of Shivamogga and Udupi District without prior permission of this court.

2. The accused No.1 shall mark his attendance before Kapu Police Station on every First Sunday of the month for a period of one year from the date of release.

3. The accused No.1 shall not indulge in any similar offence during the pendency of the case.

4. The accused No.1 shall not tamper the prosecution witnesses either directly or indirectly.

(Dictated to the Judgment Writer, the transcript thereof is corrected and then pronounced by me in the Open court, this the 24th day of July,2020)

(C.M. Joshi)

Prl. District & Sessions Judge,
Udupi.