

KABC010128802024



IN THE COURT OF THE LII ADDL. CITY CIVIL AND
SESSIONS JUDGE, BENGALURU.
(CCH-53)

Present:

Sri.Gangappa Irappa Patil, *B.A., LL.B. (Spl.)*,
LII Addl.City Civil & Sessions Judge,
Bengaluru.

Dated this the 1st day of June 2024

Crl. Misc. No. 4689/2024

<u>Petitioner No.1/</u> Accused No.1	1. Monith Gowda S/o Girish Gowda, Aged about 19 years, R/at No.69, 2 nd Cross, 2 nd Main, Muneshwara Block, Mahalakshmi Layout, Bangaluru-560 076.
<u>Petitioner No.2/</u> Accused No.2	2. Shridhar, S/o Yallappa Aged about 21 years, R/at No. 87, 12 th Cross, Bovipalya, Bhagyajyothi Colony, Mahanalakshmi Layout, Bengaluru-560076.
<u>Petitioner No.3/</u> Accused No.4	3. Madhu. M, S/o Late Manjunath, Aged about 19 years, R/at No. 120, 12 th cross, Bovipalya, Bhagyajyoti Colony, Mahalakshmi Layout, Bengaluru-560076.

<u>Petitioner No.4/ Accused No.5</u>	4. Jaswanth Gowda, S/o Anand, Aged about 23 years, R/at No.69/A, 2 nd Cross, 2 nd Main, Muneshwara Block, Mahalakshmi Layout, Bangaluru-560 076.
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[By Mr.Shashidhara. M., Advocate]

/Vs./

Respondent: State by **Sadashivanagar Police Station,**
Bengaluru.

[By Public Prosecutor]

ORDER ON PETITION u/S.439 Cr.P.C.

The Petitioners filed this petition praying to grant bail.

2. The respondent-police have registered a case against the Petitioners and others in Crime No.151/2024 for the offence punishable u/S. 143, 147, 307, 323,324 r/w 149 of IPC

3. The brief facts of the case is that, on 17.05.2024 at about 3.30pm, the complainant Anjan and his friend by name Gururaja K.R were coming towards college from Dollars colony on their bike, at that time 6-7 unknown persons came on 3 bikes near Devasandra Bus stand and tried to snatch their bike keys. When the complainant questioned the act of those persons, they assaulted the complainant and his friend with hands, one of them took a chair lying nearby and assaulted the complainant's head

and another person tried to assault the complainant's head and with a knife but the complainant managed to escape from the blow and fell down from the bike. Thereby accused committed the offence punishable u/S. 143, 147, 307, 323,324 r/w 149 of IPC. On the basis of the complainant lodged by the complainant, the Respondent police registered the case in Cr. No. 151/2024 for the above said offences.

4. The petitioners contended that they are innocent and they never committed or involved in the alleged crime either directly or indirectly but they have been falsely implicated in the above case. Petitioners are the bread earners of their family. The petitioners hail from respectable family and have no bad antecedents or previous convict and there is no case pending against them and they are in judicial custody since from 18.05.2024.

5. Petitioners also stated that they are permanent residents of Bangalore city and having deep roots in the society. They are ready to abide any of the conditions imposed by this court to ensure their regular presence before the court till the disposal of the prosecution case. Accordingly, pray for grant of bail.

6. The learned PP filed his objection stating that the investigation is yet to be completed. If the petitioners/ accused No.1,2, 4 and 5 are released on bail there is every

chance of absconding. Further stated that the alleged offence is punishable U/Sec. 307 IPC and sentence can be imposed for a life. If these petitioners are released on bail there is every chance of tampering the prosecution witnesses and causing hurdle to the trial. Accordingly, pray to reject the bail application.

7. Arguments heard. Perused the records available before the court.

8. The points arose for my consideration are:-

1. Whether the petitioners/A1,A2,A4 and 5 are entitled for bail u/s 439 of Cr.P.C.?

2. What order?

9. The findings to the above points are under:-

Point No.1: In the **Affirmative**

Point No.2: As per final order
for the following:

REASONS

10. **Point No.1:-** The learned Public Prosecutor argued that, prima-facie it is showing that there is involvement of the present petitioners in commission of the crime against complainant. The offence against the petitioners is heinous and punishable U/Sec.307 of IPC. Further he argued that if the present petitioners are

released on bail there is a chance of absconding and will tamper the witness of the prosecution. Hence, the apprehension of the prosecution can be met-out by imposing conditions. Only for the reason that I.O has yet to receive wound certificate, there is no need to keep the accused behind the bar. The offences alleged are not punishable with death or imprisonment for life.

11. At this stage there is no prima-facie material to show that the accused committed an offence punishable U/Sec. 307 of IPC. Therefore, this court is of the opinion that only for the purpose of I.O is going to receive the Wound Certificate and for seizing of articles and for sending them to FSL, for this reason there is no need to keep the accused in the judicial custody. Since the accused are in J.C. and I.O is not required these petitioners for further investigation.

12. The offence alleged against the petitioners are not punishable with death or life imprisonment. Even accepting the prosecution version at this stage, it is still subject matter of trial as to whether the prosecution can prove that the accused persons have committed the offence

as alleged in the FIR. The Hon'ble High Court of Karnataka in **Gaddeppa V. State of Karnataka (2016) 3 AIR Kant R 572 (Criminal Appeal No.3767/2010)** Decided on April 4, 2016 (Kalaburgi Bench) held that bail cannot be refused as a substitute for punishment.

13. Further the accused have stated that they are the residents of Bangalore city and ready and willing to abide by any conditions and ready to offer surety to the satisfaction of the court. They undertake that they will not abscond. In view of the above discussion, this court is of the opinion that it is a fit case to grant bail to the petitioners by imposing stringent conditions. Accordingly point No.1 is answered in the **Affirmative**.

14. **Point No.2:-** In view of the above findings and reasons, this court proceeds to pass the following:-

ORDER

The petition filed by the petitioner No.1/accused No.1 **Monith Gowda**, Accused No.2 **Shridhar**, Accused No.4 **Madhu M** and Accused No.5 **Jaswanth Gowda** U/Sec. 439 of Cr.P.C. is hereby allowed in Crime No. 151/2024 of Sadashivanagar Police Station, with following

conditions:-

1. The petitioners shall execute personal bond for Rs.50,000/- each with one surety for like sum to the satisfaction of the committal court.
2. They shall not tamper witnesses of the prosecution.
3. They shall not involve in any other crime.
4. They shall regularly appear before the court.
5. They shall mark their attendance before I.O. on every Saturday between 10-00 A.M. to 5-00 P.M. till completion of the investigation and co-operate to I.O. for investigation.
6. They shall not change their residence without prior permission of the Court.

(Dictated to the Stenographer directly on Computer, after computerization, corrected and then pronounced by me in the open court on this the 1st day of June 2024)

(Sri.Gangappa Irappa Patil)
LII Addl. CC & Sessions Judge,
Bengaluru.

Order pronounced in open court
(vide separate order)

ORDER

The petition filed by the petitioner No.1/accused No.1 **Monith Gowda**, Accused No.2 **Shridhar**, Accused No.4 **Madhu M** and Accused No.5 **Jaswanth Gowda** U/Sec. 439 of Cr.P.C. is hereby allowed in Crime No. 151/2024 of Sadashivanagar Police Station, with following conditions:-

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LII Addl. CC & Sessions Judge,
M.H.Unit, Bengaluru.