

ORDER ON BAIL APPLICATION FILED UNDER
SECTION 437 OF THE CODE OF CRIMINAL
PROCEDURE, 1973

The present bail application filed by the accused No.4
under Section 437 of the Code of Criminal Procedure, 1973

(Hereinafter referred to as the 'Cr.P.C.,' for brevity) praying the court to release him on bail in the present case for the offence punishable under Sec. 457 and 380 r/w Section 34 of the Indian Penal Code

2. It is averred in the application that, the complainant police registered a false case against him and he had not committed the alleged offence. The accused No.4 suffering from head eclipse and experiences head paid very often due to accident earlier one year back. This will cause Severe danger to his life. If he is not properly given medical treatment there is every chances of injury to his health. The accused No.4 is having no criminal antecedents and he is the permanent resident of Udupi District and he is sole bread earners for his family members. The accused is ready and willing to abide by any condition imposed by this court and also undertake to offer surety to satisfaction of this court. With these, prayed to release him on bail.

3. Per contra, the learned A.P.P., has filed objection. In the objection, the offences alleged against the accused are

non-bailable in nature. The accused No.4 involved in various cases of similar in nature and he had antecedent characters. The investigation conducted by the Investigation officer shows that accused No.4 has committed the offence punishable under Section 457 and 380 r/w Section 34 of the IPC. If accused No.4 is enlarged on bail he may tamper with the prosecution witness and flee away from justice. Therefore, sought for rejection of the same.

4. The points that would arise for consideration are:

1. Whether the accused No.1 and 2 are entitled for bail has prayed for?

2. What order?

5. I have heard both sides and perused the entire material placed on record.

6. My answer to the above said 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:-** After hearing the arguments and careful perusal of the application, objection, I.O. Report and material placed on record. The learned counsel for the accused No.4 vehemently contended that the accused No.4 was not involved any offence. The above named accused has been falsely implicated in the above case. The allegation and facts of the case do not disclose any offence against the accused No.4. There is no criminal antecedent against him. The accused No.4 suffering from head eclipse and experiences head pain very often due to accident earlier one year back. This will cause severe danger to his life. On the other hand the learned A.P.P. vehemently argued that, if at this stage, the accused No.4 is enlarged on bail, he may abscond, tamper with the prosecution witness and flee away from justice. In future securing he may be difficult.

8. The offences alleged against the accused No.4 are non- bailable in nature and neither punishable with death nor imprisonment for life and exclusively triable by this court. The I.O. has completed the investigation and

submitted charge-sheet. This shows he is not required for investigation. In view of the law laid down by the Hon'ble Apex Court in the case of *State of U.P. Through CBI –V/s- Amarmani Tripathi, reported in (2005) 8 SCC 21*. Considering the gravity of offence, the accused No.4 has committed the offence or not, the same has to be thrashed out at the time of trial. Now, at this stage the merits of the case cannot be gone into and if the accused No.4 is enlarged on bail by imposing stringent conditions, the prosecution will not be put to hardship. The accused No.4 is ready to abide by the conditions and furnish surety to the satisfaction of the court. Therefore, I am of the opinion that, it is just and reasonable to allow the bail application by imposing stringent conditions. Hence, accused No.4 is entitled for bail as sought. I proceed to pass the following:

ORDER

The bail application filed by the accused No.4 U/Sec. 437 of the Cr.P.C. is allowed subject to the following conditions:

1. Accused No.4 shall execute a self-bond for Rs.1,00,000/-(One Lakh) with two solvent sureties for likesum;
2. Accused No.4 shall not prevail upon or terrorize the prosecution witnesses;
3. Accused No.4 shall not indulge in similar offence;
4. Accused No.4 shall attend the court regularly.

II Addl. Civil Judge & J.M.F.C.,
Karkala