

**IN THE COURT OF THE LVII ADDL. CITY CIVIL AND
SESSIONS JUDGE, AT MAYO HALL, BENGALURU
(CCH-58)**

Present:

Smt. K.G. SHANTHI B.com. LLM.
LVII Addl.City Civil & Sessions Judge,
Bengaluru

Dated this the 31st day of May, 2021

Crl.Misc.No.25554/2021

**Petitioner/
Accused No.4**

Ajay R.
S/o.Ramanna,
Aged about 26 years,
C/o.Subbanna,
7th Cross, Near NBN School,
Weavers Colony,
Gottigere post,
Bannerghatta Main Road,
Bengaluru.
Native of
Madapilli village, S.Kote Taluk,
Vishakapattinam,
Andhrapradesh.

(By Sri M.Siddaiah, Advocate)

/Vs./

**Respondent/
Complainant**

State by **Byappanahalli
Police Station, Bengaluru City.**

[By Public Prosecutor]

**ORDER ON PETITION u/S. 439 Cr.P.C FILED BY
THE PETITIONER/ACCUSED No.4.**

The Petitioner/accused No.4 filed above application and prays to release him on bail. He stated that respondent-police registered a case in Crime No.143/2020 against the Petitioner and others for the offence punishable u/Ss.120B, 374, 342, 302, 201 r/w.149 I.P.C.

2. The brief facts of the case is that, the husband of the complainant Mr.Ravikumar is a Driver by profession running his own Tempo Traveller bearing No.KA-52/A2005, which attached to the Accenture at Mahadevapura through travels agency Seahawk Travels Pvt.Ltd. That on 16.11.2020 as usual early in the morning, he had been to the work, but complainant not received any call. Again on 20.11.2020, when the complainant called her husband he has not received

phone call and it was switched off. Hence, he called her his friend and made enquiry and came to know that he was on duty at 12.30 a.m. on 19.11.2020 and 4 unknown persons alleged to have been halted his vehicle on Old Madras Road and took him towards Bannerghatta road and let him free after nabbing his money. She also come to know now he is alright and he was deputed to a trip to Chickmagalur. She believed the words, so she has not lodged complaint. She waited for 2 days hoping that her husband will return, but he has not returned. Hence, she lodged complaint to the police. The police have investigated the matter and during the course of investigation they come across through one Ranjith Kumar and Accenture Travels in-charge Mr.Nirmal and one Lokesh, who is a friend of the deceased at Travels and deceased having relationship with Ms.Sukanya Murudeshwara. In this context with a grudge his friends colluded each other

and kidnapped deceased on 19.11.2020 and killed him at NICE Gomala, within the limits of Thalghattapura police station. This fact has been revealed to the police upon arresting the accused.

3. This Petitioner is accused No.4. He has contended that he is innocent and he has not committed any alleged offence. There is no material to show that he has got ill-will or motive to commit any offence as alleged. He contended that police have falsely implicated him based on the voluntary statement of other accused. Further stated that there is no eyewitness to the alleged incident. He has stated that he is in judicial custody since arrest, if he is continued it will adversely affect his future.

4. He has further stated that he is the permanent resident of the address mentioned in the Petition. There is no chance of absconding. He is ready to abide any of the conditions imposed by the Court.

He stated police have investigated the matter and filed charge sheet. So, his assistance is no more required to the IO. He has also stated that he is the only bread earner to his family, he has to look after small child and ailing wife who is suffering from her ailment. Accordingly, he prays to release him on bail by allowing the petition.

5. PP filed his objection stating that the statement of the witness reflects involvement of this accused. This accused also participated in the commission of crime along with accused Nos.1 to 3. All the accused are having common object. Further contended that if the petitioner/accused No.4 released on bail, there is chance of absconding by remaining absent. He will cause obstruction for the trial. Accordingly, prays to reject the bail application filed by the Petitioner/accused No.4.

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

7. The points arose for my consideration are:

1. Whether the petitioner/accused No.4 is entitled for regular bail u/S. 439 of Cr.P.C.?
2. What order?

8. My findings to the above points are under:

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

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

REASONS

9. **Point No.(1):-** According to complainant, on 20.11.2020 her husband has not received her call and when she made call to him it was switched off. Hence, she contacted her husband's friend Mr.Ranjith, who in turn put a conference call with the company travels in-charge Mr.Nirmal and came to know that he was deputed to duty at Chickmagalur. But even after 2

days he has not turned up, hence under suspicion she lodged complaint to the police alleging that he was kidnapped. Then complaint has been lodged on 23.11.2020. The complaint it reflects that on 20.11.2020 she come across that on 19.11.2020 in midnight some unknown persons restrained the deceased and taken him towards Bannerghatta and snatched cash from him and she also come across that now he is alright. This fact came to the knowledge of the complainant through his friend by conference call. It is pertinent to note she has not lodged complaint on that day believing that he may return. It is pertinent to note that though she came to know that there is robbery on her husband, she has not lodged any complaint. But when he has not returned home, she lodged complaint on 23.11.2020 at 17.00 hrs., saying that her husband not returned home and his mobile was switched off.

10. In this case police have investigated the matter and filed charge sheet against accused Nos.1 to 4. This Petitioner is accused No.4 in the case in Crime No.143/2020 which registered as CC No.51573/2021. The police have produced the Call list along with charge sheet. According to prosecution, the vehicle of the accused used for commission of the offence and deceased was kidnapped and took in vehicle belonging to other accused. The entire case of the prosecution based on the circumstantial evidence. The chain circumstance should be proved at the time of trial. So, at this stage, Court can see that if Petitioner released on bail whether he is available for trial or not or there is any chance of absconding. The record it reflects that this Petitioner is permanent resident of Bengaluru having wife and children. No earlier criminal antecedent of the accused/petitioner is putforth before this Court. Further, there is no reason to believe that

this Petitioner is influential person and there is chance of absconding. It is pertinent to note, in this case, police have investigated the matter and filed charge sheet. So, I am of the opinion that keeping the accused behind bar any further will affect the family life of the Petitioner . Further in the present prevailing circumstances of 2nd wave of COVID-19, it is not safe to keep the Petitioner in judicial custody. Further it affects the family of Petitioner as he is only bread earner to his family.

11. The apprehension of the prosecution that accused may abscond and he may remain absent for trial and thereby cause obstruction for the smooth proceedings of the case can be be meet out by imposing conditions. By considering all these aspects I am of the opinion that, it is fit to allow the Petition with conditions. Accordingly point No.1 is answered in the

Affirmative.

12. **Point No.2**: On the above findings, I proceed to pass the following:

ORDER

The petition filed by the petitioner Ajaya R. S/o. Ramanna u/S.439 of Cr.P.C. is hereby allowed in Crime No.143/2020 (CC No.51573/2021) of Byappanahalli Police Station, with following conditions:

1) The petitioner shall execute personal bond for Rs.1,00,000/- with two sureties for like sum to the satisfaction of the court.

2) He shall not tamper witnesses of the prosecution.

3) He shall furnish the documents for his residential proof.

4) He shall not leave the jurisdiction of the court until further orders.

5) He shall appear before the Court on all the future hearing dates.

6) He shall not involve in any other crime.

7) If for any reason the Petitioner intent to change his residence, he shall take permission from the jurisdictional police or jurisdictional Court and shall furnish his new address to the Court.

(Dictated to the Judgment writer, transcribed and computerized by him, corrected and then pronounced by me in the open court on this the 31st day of May, 2021)

(Smt.K.G.SHANTHI)
LVII Addl. C.C.& Sessions Judge,
M.H.Unit, Bengaluru.

Order pronounced in open court
(vide separate order)

ORDER

The petition filed by the
petitioner Ajaya R. S/o.
Ramanna u/S.439 of Cr.P.C. is

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