

**IN THE COURT OF THE XXVIII ADDL. CITY CIVIL &
SESSIONS JUDGE, Mayo Hall, Bangalore, [CCH.NO.29]**

Present :- Sri. Krishnaji Baburao Patil, B.Com., LL.B.,(Spl.)

Dated this the 29th day of January 2021

Crl.Misc.No.25071/2020

Petitioner: BI RAOYMOD,
S/o Grou,
Aged 33 years,
R/at #320, Raja Reddy Layout,
Flower Garden,
Babusapalya,
Bengaluru-560 043.

(By pleader : Sri. H.S. Ishrathulla)

V/s

Respondent: State by;
Hennur Police Station
Bengaluru.

(By Public Prosecutor)

ORDERS

The present Petition is filed by the Petitioner who is accused No.1 under Section 439 of Cr.P.C., for granting regular bail on the ground that the Respondent Police have registered case against the accused in Cr.No.327/2020 for

the offence punishable under Section 14 of the Foreigners Act, 1946.

2. It is alleged in the complaint that, on the basis of the complaint filed by one Sri. Eranna Belagad, Police Inspector, East Division, ISD, Bengaluru City has arrested the accused person along with another person on 24.12.2020 at about 4.00 p.m., and he was produced before the SHO, Hennur Police Station. The Sub-Inspector of Hennur Police Station after arrested the accused took the accused to his residence No.320, Raja Reddy Layout, Flower Garden, Babusab Palya, Bengaluru-560 043. The Petitioner/Accused is the native of Republic De Cote D'Ivoire (Ivory Coast). They also seized his Passport No.16AK-30462 Valid from 24.2.2017 to 23.2.222 and he was living in Bengaluru without valid visa. Hence, violated the Passport Act. Hence, the complaint.

3. The Petitioner has contended that, this Accused person was arrested by the Cubbon Park Police on 12.12.2020 for an alleged offence punishable under Section

14 of Foreigners Act r/w Section 21 of the NDPS Act. The Accused was granted bail by the Hon'ble Special Judge, NDPS Court in Crl.Misc.No.11368/2019 with a condition not to leave the jurisdiction of this Court without prior permission. Hence, the Accused was released on bail in the above case number was diligently attending the Hon'ble Court, still charge-sheet is not filed in this case. Now, this Accused has been arrested by the Respondent Police for the same offence though he has not committed any offence. The copy of the bail order in Cr.No.222/2019 of Cubbon Park Police Station is enclosed for kind reference in the present case. He cannot be booked for the same offence for the second time. Hence, he is entitled for bail. The Respondent Police filed this complaint without valid reason and with the malafide intention. The allegation made against the Petitioner are totally false, frivolous, concocted and fabricated, at no point of time the Petitioner has committed the above offence in any manner directly or indirectly. Though he has not been involved in any offence he has been falsely implicated in the above case. He is having valid

passport valid till 23.2.2022 and he is not involved in any criminal activities nor committed any offence. He never misused the same. The Complainant without any proper enquiry have filed false complaint against the Petitioner. The Respondent Police have not sought the Petitioner for police custody. They have clearly mentioned in the remand application, that the Petitioner/Accused is not required for further investigation which shows that the Police has completed the investigation. The Petitioner is having wife and two small children and is no other person to take care of them. He is the permanent resident of the Ivory Coast. The Petitioner is presently residing in Bengaluru in the above said address and got permanent abode as such he will not abscond nor flee away from justice besides his passport is in the custody of the police. The Petitioner is ready to abide by the conditions imposed by this Court and ready to furnish surety to the satisfaction of this Hon'ble Court. He will undertake not to tamper with the prosecution witnesses. Hence, prayed to allow the Petition.

4. For the said Petition the Learned PP has filed

objections in detail denying the contents of the Petition specifically has baseless and contended that the offence alleged against the Petitioner are under Section 14 of the Foreigners Act, 1946. The contents of the FIR and other documents are treated as part and parcel of the objection. The present case is still under investigation and further investigation is in progress and the Petitioner is required for investigation. The Petitioner might tamper with the prosecution witnesses which would affect the trial of the case. If the Petitioner enlarged on bail he might be abscond and commit similar offence. Hence, prayed to dismiss the application.

5. On the basis of the above, the point that arises for my consideration are:-

- 1) Whether the Petition deserves to be allowed?
- 2) What order?

6. My answer to the above points are :

Point No.1 : In the Negative.

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

REASONS

7. The present Petition is filed by the Petitioner under Section 439 of Cr.P.C. The offence alleged against the Petitioner is under Section 14 of Foreigners Act. Admittedly, the Visa of the Petitioner is expired much prior to registering the case against the present Petitioner. The Petitioner himself has produced document to show that the case was registered against the Petitioner under NDPS Act in Cr.No.222/2019 of Cubbon Park Police Station and he was granted bail in the present petition. In the present petitioner, the Petitioner has not produced any document to show that the he has made any attempt to extend the Visa period. Even there is no pleading to show that the Petitioner has made any attempt to get extend his visa. Considering the facts and circumstances of the present case that the Petitioner is already involved in a case under the NDPS Act in Cr.No.222/2019 of Cubbon Park Police Station as stated above and also in view of the fact that the Petitioner has not made any attempt to get extend the Visa after its expiry. Considering the facts and circumstances of the present

case, this Court is of the view that the Petitioner is not entitled for bail as prayed for. Hence, I answer Point No.1 in the Negative.

8. **Point No.2**:- In the result, this Court proceeds to pass the following:-

ORDER

The Petition filed by the Petitioner under Sec.439 Cr.P.C., is hereby dismissed.

[Dictated to the Stenographer, thereafter transcribed and typed by the Stenographer and the same was corrected, signed and then pronounced by me in the open Court on this the **29th day of January 2021**]

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

Orders pronounced in open court
as under (vide separately):-

ORDER

The Petition filed by the Petitioner under Sec.439
Cr.P.C., is hereby dismissed.

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.