

IN THE COURT OF THE IV ADDL. CITY CIVIL AND SESSIONS
JUDGE MAYOHALL UNIT, BENGALURU
(CCH-21)

Dated: This the 11th day of February, 2021

PRESENT:

SRI. Shanthanna Alva M.,
IV Addl. City Civil and Sessions Judge, Bengaluru

CRL.MISC. NO.25134/2021

PETITIONERS:	1	<i>Sri. Kiran. Aged about 21 years, S/o Venkatesh, R/at No.135/1,Gangamma Street, Jayanth Nagar, Near Gangamma Temple, Horamavu, Bengaluru-560 043. (Accused No.1)</i>
	2	<i>Sri. Aravind D, Aged about 23 years, S/o Doddanna, R/at No.72/1, Doddamuniyappa Compound, Thirumala Street, Near Holy Family Church, Ramamurthy Nagar, Bengaluru-560 016. (Accused No.2)</i>

(PLEADER BY: Mis. Deepa, Advocate)

.. Vs ..

RESPONDENT:	STATE BY, K.R.PURAM POLICE STATION (BY PUBLIC PROSECUTOR)
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ORDERS ON BAIL APPLICATION

Petitioners who have been arrested in Cr.No. 11/2020 registered by the respondent for the offence punishable u/s 307, r/w sec. 149 of I.P.C, filed the application u/s. 439 of Cr.P.C. to enlarge them on bail on the grounds that;-

The petitioners are innocent of the alleged offences. The material collected by the respondent do not constitute the offence for which they were arrested. The alleged offences are not punishable in the death or life imprisonment. The petitioners are aged around 23 years and the permanent residents of Bengaluru. The petitioners are poor and they were falsely implicated in the case with the malafide intention. The petitioner No.1 is the only son and his parents depended upon him for their livelihood. The petitioners are ready to obey the conditions that may be imposed and ready to furnish the surety for their regular appearance. The alleged assault was not on the vital part of the body and injured has been discharged. The informant is rowdy sheeter and many cases are pending against

him and he with malafide intention he made the petitioners as accused.

2. On being notified, the Ld Public Prosecutor appeared and filed the objection. It is contended that there are prima facie materials to the effect that petitioners involved commission of offences. The crime is still under investigation. The collection of documents and recording of statement of the witnesses is not yet over. At this stage petitioners are not entitled for the bail. The other accused persons have absconded and if the petitioners are released on bail, there is a chance of they destroying prosecution evidences. There is also chance of petitioners threatening the prosecution witnesses. On these grounds prayed to dismiss the application.

3. Heard the Ld counsel of the petitioner and the Ld Public Prosecutor. Perused the petition, objection and other documents made available.

4. *The petitioners have invoked Sec.439 of Cr.P.C which, empowers this court to enlarge the accused to on bail. The offence alleged against the petitioners is punishable with imprisonment which may extended 10 years and also liable to fee fine. Ld counsel of the petitioners argued that petitioners are innocent and they have been falsely implicated. It is argued that there is delay in lodging the complaint. The Ld counsel reiterated the grounds urged in the petitioner. Countering this, the Ld public prosecutor argued that investigation is not yet completed. At this stage if the petitioners are enlarged on bail, there is every chance of they causing hindrance to the investigation. Ld prosecutor reiterated the grounds urged in the objection.*

6. *The allegation against the petitioner is that they along with other persons in prosecution of their common object assaulted on complaint with*

knife and made attempt to will him. The complaint averments and other materials of records at this stage prima facie discloses that petitioners involved in the commission of alleged offence. At the same time, there is some merit in the argument that even if case of the prosecution accepted the ingredients constitute the offence punishable U/Sec. 307 of IPC is lacking. Admittedly, the injured is discharged.

7. The bail is rule and jail is an exception especially in less heinous crime. For the reason that some more person involved in the alleged offences is yet to be apprehended, the petitioners can't be kept in judicial custody. There is no allegation that petitioners are habitual offenders and involved in anti-social activities. The object of the bail is to secure the appearance of the accused persons and keeping of the accused persons in custody before conviction should be avoided, as far as possible. Only

exception is the circumstances where it is shown that release of the accused persons will have adverse impact on the investigation or on the society, the bail is to be denied.

9. The grounds urged for denial of bail is generally in nature and the can be taken care of by imposing necessary conditions. The custodial interrogation is not required. The investigation is almost completed. The petitioners are aged around 23 years. As stated above there is no allegation that petitioners are habitual offenders. Considering these aspects and for other reasons stated in the petition, the court holds that petitioners are entitle for the bail, but with conditions. Accordingly, the court proceeds to pass the following:-

ORDER

*The Petition filed by the petitioners
U/Sec.439 Cr.P.C., is allowed.*

Petitioners No.1 & 2 are ordered to be released on bail in Crime No. 11/2020 of K.R.Puram, Police Station for the offences punishable U/Sec. 307 r/w Sec. 149 of IPC, on execution of personal bond for a sum of Rs.1,00,000/- each with one surety each for like sum on the condition on that:

1. Petitioner No. 1 & 2 shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case, so as to dissuade from disclosing such facts to the court or to any police officer or tamper with the evidence.

2. Petition No.1 & 2 shall not commit on offence similar to the offence of which they are accused of or any other offence.

3. Petitioner No.1 &2 shall appear before the IO whenever called upon and also before the court regularly.

4. Petitioner No.1 & 2 to shall produce the proof of their residence and in case change of residential address it shall be intimated to the court.

[Dictated to the Judgment-Writer, after computerization, corrected, signed and then pronounced by me in the open Court on this the 11th day of February 2021].

[SHANTHANNA ALVA M.]
1V Addl. City Civil & Sessions Judge,
Mayo hall, Bengaluru.

Order pronounced in open court
(vide separate order)

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*1V Addl. City Civil & Sessions Judge,
Mayo hall, Bengaluru.*