

**IN THE COURT OF THE XXVIII ADDL. CITY CIVIL & SESSIONS
JUDGE**

Mayo Hall, Bengaluru, [CCH.NO.29]

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

Dated: This the 21st day of November 2020

Crl.Misc.No.25895/2020

- Petitioners:**
1. Barkath,
Aged about 27 years,
S/o Atheeq Ahmed,
 2. Shoiab Ahmed,
Aged about 31 years,
S/o Atheeq Ahmed,
 3. Tayeb Ahmed,
Aged about 30 years,
S/o Atheeq Ahmed,
 4. Allah Bakash,
Aged about 26 years,
S/o Atheeq Ahmed,
 5. Atheeq Ahed,
Aged about 70 years,
S/o Late M. Baba Saheb.

All are residing at No.155,
B.S.A Road, Tannery Road,
Frazer Town,
Bangalore-560 005.

(Pleader By : Sri. Aslam Khan)

.. Vs ..

Respondent: The State of Karnataka by
Pulakeshinagar Police Station,
Bengaluru.

(By Public Prosecutor)

ORDERS

The present Petition is filed by the Petitioners who are the accused in this case filed under Section 438 of Cr.P.C., for bail in the event of their arrest by the Respondent Police in Cr.No.257/2017 (C.C.No.56965/2019) for the offences punishable under Section 323, 324, 326, 341, 504, 506 r/w Section 149 of IPC.

2. The case of the Prosecution is that, on the basis of private complaint filed by the Complainant Mohammed Siddiq Ahmed who is the younger brother of the Petitioner No.5 and uncle of Petitioner No.1 to 4 alleging that on 21.11.2017 at about 11.00 a.m., when the Complainant's son Nawaz Ahmed parked his Tempo and was unloading the plywood sheet kept in the Tempo near his house, at that time the Complainant's elder brother's son Barkath Ahmed/Petitioner No.1 who is staying with

other Petitioners had argued with the Complainant's son and all of a sudden the Petitioner No.1 hit the Complainant's son Nawaz and after hearing the noise and galata, the brothers of the Petitioner No.1 also joined with him and they too started hitting the Complainant and his son and it is alleged that the Petitioner No.1 took cricket bat and started hitting the Complainant and his son and has assaulted on the mouth of the Complainant and caused bleeding injury and threatened the Complainant with dire consequences. Thereafter a case was registered in Cr.No.257/2017 for the offences punishable under Section 323, 324, 504, 506 r/w Section 149 of IPC. The IO after completing the investigation filed charge sheet in C.C.No.56965/2019 for the offences punishable under Section 323, 324, 326, 341, 504, 506 r/w Section 149 of IPC.

3. The Petitioners have contended that they are innocent of the alleged offences leveled against them and they are law abiding citizens. The Petitioner No.1 to 5 have already appeared before the Respondent Police and have obtained station bail in Cr.No.257/2017. The Petitioners are innocent persons and they have not involved in the above crime. The Petitioners are the

permanent resident of the address mentioned in the cause title, they hail from a respectable family and got deep roots in the society. The Petitioners are ready and willing to abide by conditions imposed by this Court. They are ready to furnish surety to the satisfaction of the jurisdictional Magistrate. Hence prayed to allow the Petition.

4. For the said application the PP has filed objections contending that the contents of the petition are false and baseless and denied in toto. The Respondent Police have registered the case against the Petitioners for the offences under Sections 323, 326, 341, 504, 506 r/w Section 149 of IPC. The Complaint, FIR and other documents attached to the Complaint are part and parcel of the objection. The Petitioners might tamper the prosecution evidence and win over the witnesses if they are enlarged on bail. There is chance of their abscondance and committing similar offences. Hence, prayed to dismiss the Petitioner.

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 Affirmative.

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

REASONS

7. The offences alleged against the Petitioners are under Sections 323, 324, 326, 341, 504, 506 r/w Section 149 of IPC. The alleged offence was occurred on 21.11.2017. In the present case, the Respondent Police already completed the investigation and filed charge sheet. Since, the investigation is over, the arrest of the Petitioners is not necessary. The offences alleged against the Petitioners are not punishable with death or imprisonment for life and exclusively triable by the Court of Magistrate. Considering the facts and circumstances of the present case, this Court is of the view that the Petitioners are entitled for anticipatory bail as prayed for in the present petition. The apprehension of the Prosecution can be met with by imposing certain conditions. With this observation, I answer

Point No.1 in the Affirmative.

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

ORDER

The Petition filed by the Petitioners under Sec.438 Cr.P.C., is hereby allowed.

The Respondent Police are hereby directed to release the accused/Petitioner No.1 to 5 Barkath, Shoiab Ahmed, Tayed Ahmed, Allah Bakash and Atheeq Ahmed in the event of their arrest in Cr.No.257/2017 (C.C.No.56965/2019) for the offences punishable under Section 323, 324, 326, 341, 504, 506 r/w Section 149 of IPC on execution of personal bond for a sum of Rs.1,00,000/- each with one surety for likesum to the satisfaction of Respondent Police subject to following conditions:-

1) The Petitioners shall appear before the IO as and when called for and co-operate with IO in the further investigation of the present case if any.

2) The Petitioners shall not tamper with the Prosecution witnesses in any manner.

3) The Petitioners shall produced Adhaar Card/Identity

Card, contact number, residential address and occupation and also photos of the Petitioners and the sureties while executing bail bond.

4) The Petitioners shall appear before the Court on the dates of hearing if called for.

5) The Petitioners shall not leave the jurisdiction of this Court without prior permission.

6) The Petitioners shall not change their residence without prior permission of the Court.

[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 **21st day of November 2020**].

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

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

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

