

**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 13th day of November, 2020

Crl.Misc.No.25571/2020

Petitioner: Mohammed Tanzeel S/o Mohammed sardar,
Aged about 25 years,
R/at No.22, Fateha galli, Akbari,
Masjid Road, Shivajinagar,
Bengaluru-560047.(A-2)

**[By Sri. Ranganath Reddy Law Associates,
Advocate]**

Crl.Misc.No.25760/2020

Petitioner: Mohammed Saffan S/o Mohammed Zabiulla,
Aged about 25 years,
Occ: carpenter, R/at No.38/1,
Sultanji Gunta Road,
New Bamboo Bazaar,
Shivajinagar, Bengaluru-560051.(A-5)

**[By Sri. Anees Ali Khan & Associates,
Advocate]**

Crl.Misc.No.25628/2020

Petitioner: Syed Ali @ Ali S/o Syed Ali,

Aged about 25 years,
R/at No.1/1, Slaughter House,
'F' Street, Shivajinagar,
Bengaluru-560051. (A-7)

[By Sri. D.G.Sreenivasa Kumar, Advocate]

Crl.Misc.No.25878/2020

Petitioner: Sahid Pasha @ Shahid
S/o Abdul Hamid,
Aged about 32 years,
R/o Babu Home,
Ramaswamy Temple Near and Anand Talkies,
D.J. Halli, Bangalore 560045.

[By Sriharsha M.N & Associates, Advocate]

Vs.

Respondent: State by Shivajinagar
Police Station, Bengaluru City.

[By Public Prosecutor]

ORDER on Petition u/s 439 Cr.P.C.

The Petitioners filed a petition and pray for grant a bail.

2. It is stated that the Shivajinagar Police registered the case against them and others for the offence punishable u/s 120(B), 143, 147, 148, 364, 302, 201 r/w 149 of IPC and 25-1(B) (b) Indian Arms Act, in crime No.03/2020.

3. Brief facts of the case are that accused No.1 and his brother were friends of the deceased and deceased used to visit the house of the accused No.1 frequently, then got acquainted with CW-20. The accused No.1 came across about illicit relationship of CW-20 the deceased. So, he developed grudge with the deceased he along with accused No.2 to 8 grudge. On 15-01-2020 the accused No.1 held conspiracy along with accused No.2 to 8 and plan to commit the murder, on 16-01-2020 at about 5-00pm accused No.1 along with accused No.2 and 5 to 8 formed unlawful assembly with deadly weapons and when the deceased came in a vehicle KA-02 ZX 8078 to meet CW-20, the accused No.1, 2 and 5 to 8 surrounded the deceased and kidnapped him in a santro car KA-04 P-9672 and accused No. 7 & 8 followed the vehicle by motorcycle, the deceased taken to Modi garden wherein the Accused No.3 & 4 are waiting. They also boarded he santro car all of them taken the deceased Abdul Mateen to deserted place near BM English School, on the way the a No-1 assaulted to the head of Abdul Mateen with long and caused the bleeding injury then on reaching spot the accused No.1 cut left hand of the deceased, the second accused fierced to the chest of the deceased with sickle the 4th and 5th accused taking the long from A-1 and assaulted to the deceased, the 6th accused taken a long from 3rd accused and assaulted on the deceased and caused cut injuries. All the accused join together and caused cut injury

and committed the murder of Abdul Mateen and then with an intention to destroy the evidence the thrown the dead body in the drainage and thereby committed the offence punishable u/s 120(B), 143, 147, 148, 364, 302 r/w 149 of IPC and 25-1(B) (b) Indian Arms Act, in crime No.03/2020.

4. The petitioners have stated that they have not committed any offence as alleged and they have no intention or motive to commit the offence. It also stated that the petitioners are innocent and they have falsely implicated in this case. It is also stated that the FIR and material placed on record is not trust worthy, and they are in consistent to the fact and medical evidence. Further stated that Investigation already completed and police have filed a charge sheet against them before the 29th ACMM in CC.No.52673/2020. They are in Judicial Custody since from the date of his arrest and they are not required any investigation.

5. It also stated that they hails from respectable family and they are the sole earning member of the family. They have got deep roots in the society.

6. He also stated that he is ready to abide any terms and conditions imposed by this court and ready to furnish to surety to the satisfaction of this court for their due appearance before the court.

7. The learned pp stated in the objection that if the petitioners are released on bail will tamper the witnesses of the prosecution. Based on the complaint the police have filed a charge sheet against the accused persons for the offence punishable u/s 120(b) 143, 148, 364, 302, 147 IPC. It is also stated that there are 17 injuries on the dead of the deceased and the accused persons involved in **barbaric** crime and gravity of the offence is more hence, pray for dismiss the bail petition filed by the petitioners.

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

9. The points arose for my consideration are:

1. Whether the petitioners are entitled for bail u/s 439 of Cr.P.C.?
2. What order?

10. My findings to the above points are under:

Point No.(i) : In the Negative

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

REASONS

11. **Point No.(i):-** The respondent police registered the case against the accused persons on complaint dtd. 18-01-2020 lodged by the father of the deceased. The complaint discloses that the accused Mohammed Tanzeel arrested in a case that a attempted to murder. In this matter police were investigating by that time he disclose that he along with others committed the murder of Abdul Matheen for the reason he has maintained the illicit relationship with his sister-in-law.

12. The learned advocate for the petitioners argued that according CW-20 the accused persons kidnapped the deceased on 16-01-2020 but no complaint lodged either by CW-20 or CW-1. On the other hand police have summoned CW-1 and taken his complaint. It is argued that complaint lodged on 18-01-2020 only after saying the accused No.1 in the police station. It also argued that the petitioners are not involved for commission of the offence and they are no way concerned with this matter.

13. According to the petitioners police have investigated the matter and filed a charge sheet, so the presence of the accused is no more required for the police. Asper the complaint the accused persons assaulted Mohammed matheen with deadly weapon and caused grievous cut injuries and thereby committed heinous murder. Either of the parties not produce the copy of the charge sheet before this court. But on perusal of the complaint it reflects

that there is a prima facie material regarding involvement of the accused persons for the commission of the crime. Merely because complaint not lodged soon after abduction it does not mean that the accused persons falsely implicated in this case. Further accused and deceased are known each other. So, no doubt might have raised by CW-20 or CW-1 against the accused persons.

14. The alleged offences are grave in nature. Further there is an allegation that deceased maintained illicit relationship with CW-20, on this ground the offence taken place. If the accused persons are released at this stage there is a chance of tampering the witnesses of prosecution and they will hamper the trial. By considering the gravity of the offence and surrounding circumstance as discussed above I am of the opinion that the petitioners are not entitled for bail. Accordingly point No.1 answered in Negative.

15. **Point No.(ii)**:- On the above findings, I proceed to pass the following:

ORDER

The petition U/s 439 Cr.P.C filed by the petitioners Mohammed Saffan, Syed Ali @ Ali, Mohammed Tanzeel and Shahid Pasha @ Shahid are hereby dismissed

(Dictated to the Stenographer, on computer directly, typed by her, corrected and pronounced by me in the open court on this the 13th day of November, 2020)

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

Order pronounced in open court
(vide separate order)

ORDER

The petition U/s 439 Cr.P.C
filed by the petitioners Mohammed
Saffan, Syed Ali @ Ali,
Mohammed Tanzeel and Shahid
Pasha @ Shahid are hereby
dismissed

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

