

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

Dated: This the 30th day of December, 2020

PRESENT:

SRI. SHANTHANNA ALVA M.,
IV Addl. City Civil and Sessions Judge, Bengaluru

CRL.MISC. NO.26094/2020

PETITIONER:	Aftab Ahmed S/o Altaf Pasha, Aged about 22 years, Residing at No.8, Balappa Garden, Shivaji Road, Shivaji Nagar, Tasker Town, Bengaluru-560 051.
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(PLEADER BY: Annes Ali Khan & Associates, Advocate)

.. Vs ..

RESPONDENT:	STATE BY, SHIVAJI NAGAR POLICE STATION
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(BY PUBLIC PROSECUTOR)

ORDERS ON BAIL APPLICATION

*Petitioner who is an accused No.7 in crime No.67/2020
registered at Shivji Nagar Police Station for the offence*

punishable u/s 398 of IPC, filed the application u/s 439 of Cr.P.C. of grant the bail on the grounds that.

2. The petitioner is innocent of alleged offence and false case has been foisted against the petitioner and others. The allegations do not constitute the offence alleged against the petitioner. The name of the petitioner is not forthcoming in the complaint. The alleged offence is not punishable with death or life imprisonment. The petitioner is young and no bad antecedents. Our Hon'ble High court in criminal petition No.5802/2020, 5824/2020 and 5915/2020 granted bail to accused No.2, 4 and 5. The petitioner is entitle for bail on parity grounds. The petitioner has not required for custodial interrogation. The petitioner undertakes to appear before the court and will not cause hamper to the investigation. The petitioner the permanent resident of Bengaluru and there is no possibility of his absconding.

3. On being notified, the learned public prosecutor filed by the objection contending that the investigation is not yet

completed, CCTv footage discloses the involvement of the petitioner in the commission of offence. If the petitioner is released on bail, there is chance of his absconding. The petitioner may destroy the prosecution evidence and threaten the prosecution witnesses. The offence alleged against the petitioner is serious one. It is contended that the interest of justice and the welfare of the society warrants the denial of bail to the petitioner.

4. Heard the arguments of the learned counsel for the petitioner and of the learned public prosecutor. Perused the application, objection and the documents made available. The point that arises for consideration is:

Whether the petitioner is entitled for bail?

5. The answer is in the Affirmative for the following:

REASONS

6. The case of the prosecution is that on 02.10.2020 about 12.00 pm., Bilal and others have entered the juice center of the complainant, created the havoc, assaulted the employee, scattered the fruits and destroyed the things. It is stated in the

complaint that perusal of the CCTv disclosed that Bilal and his associates have done that acts. The case was registered based on the written complaint. According to the prosecution the investigation revealed that the petitioner herein also involved in the commission of offence. The petitioner was arrested and produced before the jurisdictional Magistrate on 14-12-2020 and since then he has been in judicial custody.

7. Learned counsel for petitioner reiterated the grounds urged in the petition and argued that petitioner name is not mentioned in the complaint and he has been falsely implicated. Learned counsel produced wound certificate wherein it is stated that assault was by 2 persons namely Rizwan and Rameez. Learned counsel relied upon the order of our Honourable High court in the case of Javeed Pasha Vs. stated Mico Layout P.S., LAWS (KAR) 2013 8 260 wherein bail was granted on parity ground and the orders of the Honourable Supreme Court passed in the case Bhavsahed Vs. stated Maharashtra LAWS (SC) 2001 3 107 wherein bail was granted on the ground that victim

survived and there is no prospect of the offence being escalated to higher counts.

8. *Learned public prosecutor argued that this court rejected the bail application filed by other accused persons. The CC TV footage discloses that the petitioner herein involved in the commission of offence. It is argued that if the petitioner is released on bail, it will have adverse impact on the investigation and will also send a wrong signal to the society.*

9. *This court has the reservation over the assertion of the prosecution that the complaint averments constitutes the commission of alleged offence. At the same time the contention of the petitioner that he is innocent and falsely implicated in this case also cannot be accepted. There is no reason for the police to falsely implicate the petitioner in this case. The bail is a rule and Jail is an exception in less heinous. Unless it is shown the release of the accused on bail will affect the investigation or there are any other justifiable grounds, the bail is to be granted. The offence alleged against the petitioner is not punishable with death or life*

imprisonment. There is no material to the effect that the petitioner is a habitual offender. Petitioner is aged about 22 years. It not the case of the prosecution that petitioner is required for custodial interrogation. Only for the reason that alleged offence is serious in nature, it is not proper to deny the bail.

*11. The petitioner is in judicial Custody. Our Hon'ble High Court granted the bail to the accused who were named in the complaint. The alleged act of the petitioner is not more serious than that of the accused to whom the bail was granted. Thus on parity grounds the petitioner is entitle for the bail as held by our Hon'ble High Court in the case of **Javeed Pasha** referred above. The apprehension raised by the prosecution can be taken care of by imposing necessary conditions. Thus the court holds that for the reasons stated above, the petitioner is entitled for the bail. Accordingly, the following:*

ORDER

*The application filed by the petitioner
U/Sec.439 Cr.P.C., is allowed; consequently*

the bail is granted to the petitioner subject to execution of personal bond for Rs.1,00,000 with one surety for like sum on the conditions that:

1. *Petitioner shall appear before the IO whenever called upon in relation to the investigation of this case and co-operate with the investigation.*
2. *Petitioner shall not directly or indirectly make attempts to threaten the prosecution witnesses or tamper with the prosecution evidences in any manner and shall not intimidate the complainant or the injured.*
3. *Petitioner shall not commit similar offences or any other offences.*

[Dictated to the Stenographer, after computerization, corrected, signed and then pronounced by me in the open Court on this the 30th day of December, 2020].

[Shanthanna Alva M.]
*IV Addl. City Civil & Sessions Judge,
Mayo hall, Bengaluru.*