

**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 23rd day of December, 2020

Crl.Misc.No.26024/2020

<u>Petitioners:</u> (Accused No.1)	1.	J. John Joseph, S/o Late Joseph, Aged about 75 years,
(Accused No.2)	2.	Smt. J. Marlin, W/o Anthony, Aged about 48 years, Both are R/at: C/o. Kanthamma's House, No.104, Opp: Bata showroom, Near IOC Circle, Banaswadi Main road, R.S Palya, Bangalore-560 033. [By M/s Shiva & Co., Advocate]

V/s

<u>Respondent:</u>	1.	State by Banaswadi Police Station, Bangalore. [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 by the petitioners that the Banaswadi police registered the case against them for the offence punishable u/s 302 of IPC.

3. The brief facts of the complaint that on 02/09/2020 at about 2.00 P.M the complainant received a call from his relative shankar and he came to know that his mother was murdered. So, immediately rushed to see his mother and found his mother was dead on the bed itself. On looking in to the body he found that there were injuries on the back side of the head and scratches on the face of his mother the bangles, ear studs not found. On enquiry with his sister he come across that his sister Manjula went for shopping at about 12-30 P.M when she returned and found that her mother was lying in the room. In this regard he lodge a complaint to the police and police have registered the case in Crime No.356/2020 for the offence punishable U/s 302 IPC.

4. The petitioners stated that they are totally strangers to the alleged crime but police have falsely implicated them. They have also stated that they have no friendship or relationship with a deceased and they have no intention to commit the crime.

5. It also stated by the petitioners that, complainant as not specifically stated how many members involved and participated in murdering deceased and also not stated whether he found any injury on the face of the deceased which can be occurred by using club. Further complaint does not reflects that the particulars of culprits. No eye witness to the incident. The respondent police also not conducted the test identification parade of the petitioners in the presence of complainant, his sister, neighbors and others. It is stated by the petitioners that the police have not seized anything from them.

6. It is stated by the petitioners that they are in judicial custody since more than 3 months. The petitioner No.1 is a senior citizen and he is suffering from age old ailments and undergoing medication.

7. The 2nd petitioner is having husband and children and her family members fully depending on her. It is stated that they hailing from respectable family and having deep roots in the society. They are the permanent residence of Bangalore. So, there is no chance of absconding. They undertakes that they will offer surety to the satisfaction of the court and ready to abide any of the conditions imposed by the court. Accordingly prays for grant of bail.

8. The learned PP filed his objection stating that petitioners involved in a heinous crime. If they release on bail they will tamper the witnesses of the prosecution and there is a chance of absconding. It also stated that these petitioners committed the murder of Kanthamma for the purpose of gold. The 2nd accused taken the daughter of the deceased out of the house on the guise of opening the Jandhan Account. In the meanwhile the 1st accused committed the murder of the Kanthamma and taken away the golden ornaments. The accused persons sold the golden ornaments for Rs. 1,85,000/-, and out of that Rs.1,50,000/- paid to CW-8 towards loan and Rs.35,000/- paid to CW-13. It is submitted by the P.P that based on the voluntary statement of the 1st accused 4 golden bangles and ear studs were recovered from the possession of CW-24 and Rs.35,000/- was recovered CW-13. It is stated that the accused persons committed the murder of deceased for the purpose gold and there is an prima facie materials to show the commission of the offence by the accused persons. Hence prays to reject the bail application.

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

10. 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?

11. My findings to the above points are under:

Point No.1: In the Negative

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

REASONS

12. According to the prosecution on 02/09/2020 at about 2.00 P.M the complainant received a call from his relative shankar and he came to know that his mother was murdered. So, immediately rushed to see his mother and found his mother was dead on the bed itself. On looking in to the body he found that there were injuries on the back side of the head and scratches on the face of his mother the bangles, ear studs not found. On enquiry with his sister he come across that his sister Manjula went for shopping at about 12-30 P.M when she returned and found that her mother was lying in the room. In this regard he lodge a complaint to the police and police have registered the case in Crime No.356/2020 for the offence punishable U/s 302 IPC.

13. The accused are arrested by the police. At the instance of the accused golden ornaments were recovered from Attica Gold Company situated at M.S Nagar. Which is subjected to P.F, in P.F No.123/20. The 2nd petitioner is none other than the daughter of

the 1st petitioner. The petitioners availed a loan and facing financial crisis. So, they hatched a plan. The 2nd accused taken the daughter of the deceased out of the house on the guise of opening the Jandhan Account. In the meanwhile the 1st accused committed the murder of the Kanthamma and taken away the golden ornaments. The accused persons sold the golden ornaments for Rs. 1,85,000/-, and out of that Rs.1,50,000/- paid to CW-8 towards loan and Rs.35,000/- paid to CW-13. It is submitted by the P.P that based on the voluntary statement of the 1st accused 4 golden bangles and ear studs were recovered from the possession of CW-24 and Rs.35,000/- was recovered CW-13. There is a prima facie material to show that the accused are involved for the commission of the murder of deceased Kanthamma. There is no sufficient ground to grant bail to the petitioners at this stage. Hence, I answered point No.1 in the **Negative**.

14. **Point No.2:** On the above findings, I proceed to pass the following:

ORDER

The petition filed by the petitioners
J. John Joseph and Smt. J. Marlin u/s
439 of the Cr.P.C. with respect to Crime
No.356/2020 of Banaswadi Police is

hereby Dismissed.

(Dictated to the Stenographer, on computer directly, typed by her, corrected and pronounced by me in the open court on this the 23rd day of December, 2020)

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

Order pronounced in open court
(vide separate order)

ORDER

The petition filed by the petitioners J. John Joseph and Smt. J. Marlin u/s 439 of the Cr.P.C. with respect to Crime No.356/2020 of Banaswadi Police is hereby Dismissed.

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