

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

Dated: This the 11th day of December 2020

PRESENT:

SRI. MOHAMMED MUJEER ULLA C.G. B.A. LL.B.,
IV Addl. City Civil and Sessions Judge, Bengaluru
(CONCURRENT CHARGE)

CRL.MISC. NO. 26025/2020

PETITIONER:	MUYEENUDDIN <i>Aged about 48 years</i> <i>S/o. Late.Syed Sabjan</i> <i>R/at: No.9, Kenchappa Garden</i> <i>Chamundinagar Main Road</i> <i>R.T.Nagar</i> <i>Bengaluru – 560032.</i>
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.. Vs ..

RESPONDENT:	STATE BY, HALASURU POLICE STATION, BENGALURU
(BY PUBLIC PROSECUTOR)	

ORDERS

The Petitioner has filed the instant petition U/Sec.438 of Cr.P.C., for grant of anticipatory bail.

2. The learned Public Prosecutor has filed objections.

3. *Heard arguments on both side and perused record.*

4. *The point for consideration is:*

“Whether the Petitioner is entitled for anticipatory bail?”

5. *My findings on the above point is in the AFFIRMATIVE for the following:*

REASONS

6. *Complainant Mrs.Carmelita Rasquinha in the complaint has stated that, her son Brian Rasquinha purchased flat No.301, Floor, “V.J.Pride Apartment” at Swamy Vivekanada Road, Halsuru, Bengaluru, from accused No.1 & 2 for a sum of Rs.56,81,250/- under the registered sale deed dated:25/04/2017. Taking undue advantage of her son residing in abroad, with an intention to cheat him, accused No.1 & 2 who sold the flat to her son, created Agreement of Sale dated:09/03/2017 in favor of petitioner in respect of the same flat and instigated the petitioner to commit trespass into the said flat. In this regard, complainant given complaint to the SHO of Halauru Police Station. On the basis of the said complaint, the SHO of Halasuru Police Station*

registered FIR in Cr.No.393/2019 against the petitioner & 2 others for the offences punishable U/Sec.420, 448 R/w Sec.34 of IPC.

7. The learned public prosecutor has filed objection contending that, petitioner committed offences punishable U/Sec.420, 448 of IPC. The investigation is at a preliminary stage. At this stage if the petitioner is released on bail, it will hamper the investigation. On these and other grounds, learned public prosecutor prays to dismiss the instant petition.

8. Petitioner has produced photocopies of Agreement of sale dated:09/03/2017, plaint & ordersheet in OS.No.25149/2020. A perusal of the same would show that, in respect of the disputed flat, Civil suit pending before the competent Civil Court between petitioner & 2nd accused.

9. The offences alleged against the petitioner punishable U/Sec.420 & 448 of IPC are not punishable with death or imprisonment for life. The allegation of cheating is made against accused No.1 & 2. The allegation against the petitioner is that, he committed trespass into the suit flat. There is no criminal antecedents against the petitioner. The dispute between the parties

*is in respect of flat appears to be a civil dispute. Therefore, having regard to the nature of allegations made against the petitioner in the complaint and the material available on record, I am of the view that, the petitioner can be released on bail by imposing reasonable conditions to safeguard the apprehensions raised by the learned public prosecutor. In view of my afore said findings, I hold that, the petitioner is entitled for anticipatory bail. Accordingly I answer the point for consideration in the **AFFIRMATIVE** and pass the following:*

ORDER

The Petition filed by the Petitioner U/Sec.438 of Cr.P.C., is allowed.

Petitioner is ordered to be released on bail in case of his arrest in connection with Cr.No.393/2019 of Halasur Police Station for the offence punishable U/Sec.420, 448 R/w Sec.34 of IPC, by taking bond in a sum of Rs.50,000/- with a surety for the like sum each, subject to the following:

CONDITIONS

1. *The Petitioner shall appear before the SHO of Halasur Police Station within 15 days and to co-operate with the enquiry/ Investigation.*
2. *He shall further appear before the SHO/ Investigating Officer whenever called upon to appear by giving notice in writing well in advance fixing the date and time of appearance and co-operate with the enquiry/ investigation.*
3. *He shall not tamper or inter-meddle with the prosecution witnesses.*
4. *He shall produce Aadhaar Card/Identity Card, contact number, residential addresses and photos of himself and his surety while executing bail bond.*
5. *He shall not change his residence without intimating the Court.*

[Dictated to the Stenographer directly on computer, corrected, signed and then pronounced by me in the open Court on this the 11th day of December 2020].

[MOHAMMED MUJEER ULLA C.G]
C/C IV Addl. City Civil Judge
Mayo hall, Bengaluru (CCH 21)