

**IN THE COURT OF THE LXXII ADDL. CITY CIVIL
&SESSIONS JUDGE AT MAYO HALL
BENGALURU, (CCH-73)**

Present:

**Sri.Abdul-Rahiman. A. Nandgadi,
B.Com, LL.B., (Spl.,)
LXXII Addl. City Civil & Sessions Judge,
Bengaluru.**

Dated this the 04th day of March, 2021.

**CRIMINAL MISC.PETITION NO. 25200/2021
IN D.J.HALLY P.S.CRIME NO.216/2020.**

**Petitioner/
Accused
Persons:-**

1. Salman,
S/o Nisar Ahmed,
Aged about 21 years,
R/at No.29, 13th Cross,
Muneshwara Nagar,
Shampur Main Road,
K.G.Halli, Bangalore-45.

2. Syed Adnan,
S/o Ir5fan Pasha @ Medical Irfan,
Aged about 26 years,
R/at No.101G, 2nd Floor,
Gurukrupa Apartment,
Mottamma Muniyappa Layout,
Kaval Byrasandra,
R.T. Nagar Post, Bangalore.

3. Syed Junaid,
S/o Syed Mustafa,

*Aged about 19 years,
R/o 4th Cross,
Near Raza Masjid,
Shadab Nagar,
D.J.Halli, Bengaluru-560 045.*

4. Syed Jibrad @ Jibran,
*S/o Amjed,
Aged about 19 years,
R/o Near Toor Masjid,
3rd Cross, M.M.Layout,
Shampur Main Road,
Bengaluru-560 045.*

5. Tausif Khan,
*S/o Ismail Khan,
Aged about 28 years,
R/at No.9, 2nd Floor,
3rd Cross, Doddanna Nagar,
Kaval Byrasandra,
R.T.Nagar Post,
Bengaluru-560 032.*

6. Liyakhat Ali,
*S/o Habeeb,
Aged about 33 years,
R/at No.12, Near Khan Sab's
house, 13th Cross,
Anwar Layout,
K.G.Halli, Bengaluru-560 045.*

**[By Mr. Anees Ali Khan & Associate –
Adv.]**

V/s

Respondent:- **State of Karnataka**
by D.J. HALLI Police Station,
Bengaluru City.

Through the Special Public
Prosecutors

ORDERS ON BAIL PETITION

The present petition is filed by the Petitioners, who are Accused Nos.1 to 6 in D.J.Halli P.S. Crime No.216/2020, U/Sec.439 of Cr.P.C, praying to enlarge them on regular bail in the said Crime, registered for the offences punishable U/Secs. 153-A, 144, 145, 147, 427, 395, 435, 436 R/w. Sec.149 of IPC and U/Sec. 2 of KPDLP Act.

2. *The Petitioners contend that, the Respondent/ Police has falsely implicated them. Initially offences punishable U/Secs. 143, 144, 147, 148, 435, 395, 448 R/w. Sec.149 of IPC and Section 2 of the KPDLP Act, were leveled against them. The Petitioners are innocent of the alleged offences. Initially names of the Petitioners were not found in*

the FIR, but subsequently, they have been included and shown as Accused persons. Investigation is completed. Petitioners are not required for any further police custody, investigation or interrogation. Petitioners are remanded to judicial custody, their retention will amount to pretrial punishment, which is not warranted in law. No ingredients of alleged offences have been made out by the prosecution.

The alleged offences are non-bailable in nature, but not exclusively punishable with death or imprisonment for life. They are permanent residents of Bengaluru and hail from respectable poor family, having deep roots in the society. Petitioners are young and bread-earners of their respective families, their retention will cause financial constrain to their respective families. They are ready to abide by the all the terms and conditions for their release on bail and to offer surety to the satisfaction of the Court. Hence, prayed to allow their Petition and grant regular bail to them.

3. *Notice of the petition was taken by the Spl. P.P and the Spl.P.P has filed his objections,*

contending that, the Petitioners were also the members of the unlawful assembly, refused to disburse, which later turned violent and started to ablaze fire on the Government properties such as vehicles, Police Stations, including the private properties and vehicles. Heavy loss, damage and destruction was caused by the said unlawful assembly to the Government and to the public at large.

In furtherance of the said unlawful activities, around 100 persons out of 1000 persons came near the house of Vikas Gowda at about 10-45 pm and threatened the Complainant. They broke the gate and the door of the house and entered the house and took away valuable properties like gold, silver and cash, thereby causing loss to the tune of Rs.10 lakhs. The said mob has damaged furniture, electronic items, two wheelers and car. Both the K.G.Hally and D.J.Hally Police Stations were targeted. The Petitioners have been identified by the eye-witness more particularly CW.1 and other police personnel. Materials have been seized.

Electronic evidence in the form of video recording by media, CC TV footage of the scene of offence have been obtained by the Respondent Police alongwith CDRs and Tower-dump, the same were sent for FSL for further investigation. The Petitioner s are influential persons belonging to the same locality, if they are released on bail, they will tamper the prosecution witnesses and may flee from justice, thereby lead to protraction of trial. Hence, prayed to reject the bail Petition.

4. *Heard the Arguments for the Learned Counsel for the Petitioners and the Learned Spl. P.P.*

5. *The points that arise for my consideration are:*

1. Whether the Petitioners/ Accused Nos.1 to 6 in D.J.Hally P.S. Crime No.216/2020 are entitle for grant of bail, in the said crime?

2. What Order?

6. My findings for the above points are as under for the following reasons:

**Point No.1: In the Affirmative;
Point No.2: As per final orders.**

REASONS

7. POINT No.1:

As per the decision **of the Hon'ble Apex Court, in the case of State of Maharashtra V/s Sitaram Popat Vetel & Another, reported in (2004) 7 SCC 521**, wherein it is held that;

“Reasons for grant or rejection of bail must be recorded particularly where an Accused is charged with a serious offences, without discussing the merits of evidence. Conclusive findings, as regards the points urged by the parties not expected of the Court considering the bail”.

8. I have perused the averments made in the bail Petition, FIR, Complaint, the charge-sheet placed on record and the objections filed by the Spl.P.P.

9. *Looking to the Complaint averments the case of the prosecution in brief is that:*

One Mr. Munne Gowda/ the Complainant, while he was near the house of Vikas Gowda at about 10-45 pm, about 1000 miscreants came near the spot and out of them 100 miscreants threatened on him dare consequences broke the gate and door of his house and took away valuable properties like gold, silver and cash, thereby cause loss to the tune of Rs.10 lakhs. The said miscreants have also damaged furniture, electronic item, two wheelers and cars.

10. *The Learned Counsel for the Petitioners/ Accused submits that, Petitioners are innocent of the crime, they have not committed any offence muchtheless as alleged by the prosecution.*

Percontra, the Learned Spl.PP would contend that, the Petitioners have been identified by the eye-witness.

11. *Looking to the Complaint averments, so far as Petitioners are concerned, the allegations are*

general in nature and there is no specific allegation in respect of each of the Accused persons. Admittedly, according to the prosecution case, it was a group of miscreants, alleged to have been involved in the incident. So individual acts of each of the Petitioners is to be established in the course of trial, after recording evidence.

12. *As per the materials on record, the Petitioners are charged with the offences punishable U/Secs. 143, 144, 147, 148, 435, 395, 448 r/w. Sec.149 of IPC and Section 2 of the KPDLP Act. Except, Sec. 395 of IPC, all the offences alleged are bailable in nature. The alleged offence U/Sec. 395 of IPC is not exclusively punishable with death or imprisonment for life.*

13. *The Learned Counsel for the Petitioners would contend that, regular bail has been granted in the similar cases and claims to release the Petitioners on the ground of parity.*

14. *As submitted by the Learned Spl. PP the charge-sheet is filed against the Petitioners. As per prosecution, CW.1 and other police personnel have identified the Petitioners. PF is filed. MO's are recovered. The apprehension of the Learned Spl. PP is that, if the Petitioners are set on bail, they may tamper the prosecution witness and may flee from justice. On perusal of the police report, it is seen that, almost all the prosecution witnesses are police personnel. However, both these apprehensions of the prosecution can be satisfied by imposing necessary conditions.*

15. *Learned Counsel for the Petitioners has produced xerox copy of the Aadhar cards to show the residential proof of the Petitioners.*

16. *On the basis of records, it is revealed that, the jurisdictional Magistrate has committed the proceedings to the Committal Court.*

17. *Under the circumstances, I am of the considered opinion that the Petitioner Nos.1 to 33 are*

entitle for grant of Regular Bail, subject to certain conditions.

Hence, **I ANSWER POINT NO.1 IN THE AFFIRMATIVE.**

18. POINT No.2:

For having answered Point No.1 in the Affirmative, I proceed to pass the following:

ORDER

Bail Petition filed by the Petitioners/Accused Nos.1 to 6 in D.J.HALLI P.S. Crime No. 216/2020 is hereby Allowed, subject to the conditions.

In the consequences, it is ordered to release the Petitioners/Accused Nos.1 to 6 in D.J.HALLI P.S. Crime No. 216/2020, in case, if they are not required in any other crime.

Conditions for grant of bail:

1. The Petitioners/ Accused Nos.1 to 6 shall execute personal bond for the sum of Rs.1,00,000/-, with two sureties for the likesum

each, to the satisfaction of the Committal Court.

2. The Petitioners/ Accused Nos.1 to 6 shall not tamper the prosecution witnesses, either directly or indirectly.

3. The Petitioners/ Accused Nos.1 to 6 shall not involved in similar crime.

4. The Petitioners/ Accused Nos.1 to 6 shall not leave the jurisdiction of the Court without prior permission.

5. The Petitioners/ Accused Nos.1 to 6 shall produce their present Identity size photograph alongwith copy of Aadhar Cards, before the concern Court.

(Dictated to the Judgment-writer directly on the computer, corrected and pronounced in open court this the 04th day of March, 2021.)

[Abdul-Rahiman. A.Nandgadi]
LXXII Addl.City Civil & Sessions
Judge, (CCH-73), Bengaluru.