

**IN THE COURT OF THE XXVI ADDL. CITY CIVIL &
SESSIONS JUDGE, AT MAYO HALL, BENGALURU
(CCH.20)**

Present:

Sri.D.S.Vijaya Kumar, B.Sc, LL.B.,
XXVI Addl. City Civil & Sessions Judge, Bengaluru

Dated this the 30th day of November, 2020.

Crl.Misc.No.25957/2020

Petitioner:- Prashanth,
S/o Joseph Glavi,
Aged about 24 years,
R/a. No.208, 11th Main,
Shantinagar,Lingarajpuaram,
Banaswadi,
Bengaluru
[By Sri.A.K.-Adv]

Vs.

Respondent:- State by K.G.Halli Police Station,
Bengaluru City.
[By Public prosecutor]

ORDER

Petitioner has filed this bail petition under
section-439 of the Cr.P.C., praying for granting an

order of Regular bail in respect of the offences alleged under sections-143, 147, 148, 448, 341, 307, 504, 427, 149 of Indian Penal Code, in Crime No.317/2020 of the Respondent - K.G.Halli Police Station, Bengaluru.

2. Brief facts of the bail petition are as under:-

Respondent Police have falsely implicated him in the case. He is totally innocent of the offences alleged against him. His name is not mentioned in the FIR. He is in judicial custody. Offences are not punishable with imprisonment for life or death. He has valid and tenable defence. He has not committed any offences as alleged. He is ready to offer solvent sureties and abide by any conditions and there are no overtacts attributed against him. He is the sole

bread earning member of his family. Thus, Petitioner have sought for enlarging him on bail.

3. Objections filed by the prosecution to the above petition, are as under:-

Respondent Police have registered a case in Crime No.317/2020 for the offences punishable under sections 143, 147, 148, 448, 341, 307, 504, 427, 149 of Indian Penal Code. Investigation is still under progress. Petitioner has committed the above offences. If the Petitioner is released on bail, he may abscond permanently and also commit similar offences and abscond from trial. Offences are punishable with death or imprisonment for life. Hence, on these grounds, learned Public Prosecutor has sought for rejection of the bail petition.

4. Heard arguments and also perused the records.

5. In the circumstances, the following points arise for determination:-

1. Whether Petitioner is entitled to an order of Regular Bail, as sought for?

2. What order?

6. My findings to the above points are under:

Point No.1 :- In the **affirmative**

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

R E A S O N S

7. Point No.1:- One Aravind has submitted FIS to the Respondent Police on 12.10.2020 alleging that his elder sister and her husband were frequently engaging in quarrel and in that

connection informant had gone to their house and pacified them. At that time, Accused No.1 who was a neighbour had quarreled with the informant and his brother by questioning as to why they were going to the said place and had also assaulted them. Eversince Accused No.1 was wreaking vengeance against the informant. On 11.10.2020 at 8.30 PM when the informant was sleeping in his house, Accused No.1 along with 7-8 associates came into the house being possessed with long and knife and one among them assaulted the informant with long on his head. When informant ran into the kitchen, Accused No.1 followed him and dragged the informant to the living room and assaulted with a knife and also his associates assaulted him with long and knife on his head, left chest, right and left hand. Some of the accused persons assaulted with reverse

side of the long and also ransacked the household articles, causing loss about Rs.50,000/-. They posed threat to the informant and threw stone on the vehicle of one Sebastien which had been parked in front of the house. Thereafter, they went away.

8. Petitioner has been arrayed as Accused No.4 in the Remand application. His name is not forthcoming in the FIR. Petitioner/Accused No.4 has produced certified copy of the FIR registered in Crime No.317/2020 for the offences punishable under sections 143, 147, 148, 341, 504, 427, 307 read with sec. 34 of Indian Penal Code along with certified copy of Remand application dtd.03.11.2020, PF, Scene of occurrence Mahazar and order sheet in Crime No.317/2020.

9. Perusal of the remand application dated 03.11.2020 whereunder police custody of the

Petitioner/Accused No.4 has been sought, shows that incident has allegedly taken place on 11.10.2020 at 8.30 PM and FIS has been submitted on 12.10.2020 at 19.30 hours and thereafter, I.O. has deputed the staff to trace the accused persons of the case. Further, remand application shows that during the investigation time eye witnesses gave information that Petitioner was involved along with other accused persons. After obtaining police custody of the Petitioner, he has been remanded to the judicial custody from 07.11.2020. In fact, remand application dtd. 3.11.2020 shows that the Petitioner was secured from prison by way of body warrant as he was lodged in the prison in Crime No.180/2020 for the offence punishable under sections 399 and 402 of Indian Penal Code. So, initially Petitioner has been secured under body warrant from Crime

No.180/2020 and then produced in this case and his police custody has been secured on 03.11.2020 and then he has been remanded to the judicial custody. Petitioner has also produced certified copy of the scene of occurrence mahazar. But, the remand application do not show that any weapon has been seized specifically at the instance of the Petitioner. In the remand application dtd.07.11.2020, it is stated that Accused Nos.1 to 6 were taken to police custody on 03.11.2020, and in the voluntary statement, accused persons gave information about the place of hiding of weapons and thereafter same were seized. However, which weapon was seized at whose instance, is not detailed in the remand application.

10. Remand application dtd. 07.11.2020 shows that informant has been discharged from the

Hospital and he has been taking treatment as outpatient. As such, informant is out of danger and Petitioner is in custody since 03.11.2020. As already mentioned he has been secured from another case by obtaining body warrant.

11. Apart from that, Accused Nos. 2 and 5 of this case have been enlarged on bail in Crl. Misc.No.25910/2020 by order dtd.24.11.2020. Having regard to the facts and circumstances of the case, I am of opinion that by imposing stringent conditions, Petitioner may also be enlarged on bail. Consequently, **point no.1** is answered **in the affirmative.**

12. Point No.3: On the above findings, I proceed to pass the following:-

ORDER

Bail Petition filed under Sec.439 of the Cr.P.C by the Petitioner/Accused No.4, **is hereby allowed.**

Petitioner/Accused No.4, in Crime No.317/2020 of K.G.Halli Police Station, Bengaluru, is hereby enlarged on bail for the offences under sections 143, 147, 148, 448, 341, 307, 504, 427, 149 of Indian Penal Code, subject to the following conditions:-

- 1) Petitioner shall give attendance before the I.O., K.G.Halli Police Station, on every alternative Sunday from 10 a.m. to

2 p.m. till filing of Charge sheet/Final Report.

2) Petitioner shall not threaten the prosecution witnesses or tamper with the prosecution evidence.

3) Petitioner shall co-operate in the investigation of the case and shall not commit any offences.

4) Petitioner shall not abscond from the trial.

5) Petitioner shall execute personal bond for a sum of Rs.50,000/- and furnish one surety in like sum to the satisfaction of the Learned 11th Additional Chief Metropolitan Magistrate, Mayo Hall Unit, Bengaluru.

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(Dictated to the Stenographer, transcribed by him and computerized and then corrected and pronounced on this the **30th day of November, 2020**)

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(D.S.VIJAYA KUMAR)

XXVI Addl.CC & SJ, Mayo Hall Unit
Bangalore

(Order pronounced vide separate order)

ORDER

Bail Petition filed under Sec.439 of the Cr.P.C by the Petitioner/Accused No.4, is hereby allowed.

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(D.S.Vijaya Kumar)
XXVI ACC & SJ, Mayo Hall, Bengaluru.