

**IN THE COURT OF THE XXVIII ADDL. CITY CIVIL &
SESSIONS JUDGE
Mayo Hall, Bengaluru, [CCH.NO.29]**

Present: - Sri. Krishnaji Baburao Patil,
B.Com.,LL.B.,(Spl.)

Dated: This the 16th day of December 2020

Crl.Misc.No.25968/2020

Petitioner: Sri. Ganesh.M,
S/o Murthy,
Aged about 23 years,
R/at No.78/21,
Sri. Rama Temple Road,
Krishnappa Garden,
Cox Town, Jeevanahalli,
Bangalore-560 005

(Pleader By : Sri. Jagadeesh Murthy K.M)

.. Vs ..

Respondent: The State of Karnataka by
Banaswadi Police Station,
Bengaluru.

(By Public Prosecutor)

ORDER

The present Petition is filed by the Petitioner who is
accused No.1 in this case under Section 438 of Cr.P.C., for

anticipatory bail in Cr.No.255/2020 for the offences punishable under Sections 332, 326, 341, 504, 506 r/w Section 34 of IPC.

2. The case of the Prosecution is that, on 27.10.2020 at about 4.30 p.m., the Complainant's husband left home stating that he is going to collect his wages and at about 5.00 p.m., he returned back with injuries to his hands and face and when questioned the same he alleged to have been stated that he was on the way to collect his coolie at 1st Cross of K.R. Garden in a vacant site the accused Ganesh was sitting with his friends and they have teased him and when he questioned them about their act, they got raged and assaulted him with hands and weapon on his head, face and hands and he managed to escape from their clutches and also the accused threatened him with dire consequences. Due to fear they did not gone to the hospital and on 28.10.2020 the Complainant found bleeding from the mouth and nose of the injured, immediately she took him to the nearest Pooja Hospital, wherein the Doctor informed that there is major injury to his head and

suggested to take him to NIMHANS. Immediately the Complainant took him to NIMHANS where the Doctor informed that there is clotting of blood in the head and patient has to undergo surgery for the same. Hence, the complaint.

3. The Petitioner has contended that he is innocent of the alleged offences leveled against him and he has got valid and tenable defence in his favour. The Petitioner has no knowledge nor reasonable belief nor apprehension of the alleged offences, but he has been falsely implicated in the above case at the instance of the Complainant. At no point of time the Petitioner has involved in the alleged crime either directly or indirectly, but he has been falsely implicated in the present case. As per the Complainant the alleged incident alleged to have been taken place on 27.10.2020 between 4.30 and 5.00 p.m., on a busy road, such being the case except the injured there is no eye witness to say about the alleged incident and on the other hand the Complainant have not at all seen the scene of occurrence and it is an hear say complaint. Further alleged

incident alleged to have been took place on 27.10.2020 but the complaint was lodged on 3.11.2020 i.e., after lapse of 06 days of the incident which throws great doubt about the credibility of the complaint of the Complainant. The Doctor of the Pooja Hospital have not registered any MLC case against the Petitioner. There is no specific mention of the overt act attributed by the petitioner. There is no such ingredients attract Section 326 of IPC. The accused has not assaulted the Petitioner at no point of time. There is no prima-facie case made out against the Petitioner. The petitioner is permanent resident of the address given in the cause title. The Petitioner undertake to co-operate with the investigating officer during the course of investigation. The Petitioner are ready to abide by any conditions that may be imposed by this Court and ready to furnish surety to the satisfaction of the Jurisdictional Magistrate. Hence, prayed for allow the Petition.

4. For the said application the PP has filed objections contending that the contents of the petition are false, baseless and they are denied in toto. The Respondent Police

have registered the case against the Petitioner and others for the offences punishable under Section 341, 323, 326, 504, 506 r/w Section 34 of IPC. The contents of the complaint, FIR be treated as part and parcel of the petition. The investigation is still at primary stage. The Petitioner might tamper the prosecution evidence and win over the witnesses if he is enlarged on bail. There is also chance of his abscondance. Hence, prayed to dismiss the Petitioner.

5. On the basis of the above, the point that arises for my consideration are:-

1) Whether the Petition deserves to be allowed?

2) What order?

6. My answer to the above points are :

Point No.1 : In the Affirmative

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

REASONS

7. The offences alleged against the Petitioner are under Section 341, 323, 326, 504, 506 r/w Section 34 of IPC.

Except the offence under Section 326 of IPC, all other offences are punishable in nature. The offences alleged against the Petitioner are not punishable with death or imprisonment for life. The alleged incident occurred on 27.10.2020. But, the complaint was filed on 3.11.2020. There is much delay in filing the present case. The injured is already discharged from the hospital. The Petitioner has produced the discharged summary wherein the history of the injured is as shown as the patient was brought by his relatives with the history of accidental slip and fall on level ground on 27.10.2020. In this regard, the explanation was given by the Complainant in his complaint that as it may cause late in treatment he has given statement before the Police accordingly. But, the said fact cannot be accepted at this stage. It is also clear from the objection filed by the Prosecution that there is no criminal antecedents alleged against the Petitioner. The Petitioner has contended that he is the permanent resident of the address given in the cause title. The Petitioner is ready to abide the conditions that may imposed by this Court and also ready to furnish surety

to the satisfaction of the Respondent Police on the event of his arrest. All these facts have not been denied by the Prosecution in its objection. The apprehension of the Prosecution can be met with by imposing certain conditions. Considering the facts and circumstances of the present case, this Court is of the view that the Petitioner is entitled for anticipatory bail as prayed in the petition. With this observations, I answer Point No.1 in the Affirmative.

8. **Point No.2**:- In the result, this Court proceeds to pass the following:-

ORDER

The Petition filed by the Petitioner under Sec.438 Cr.P.C., is hereby allowed.

The Respondent Police are hereby directed to release the Petitioner/accused No.1 Sri. Ganesh.M S/o Murthy in the event of his arrest in Cr.No.255/2020 on execution of personal bond for a sum of Rs.1,00,000/- with one surety for likesum to the satisfaction of Respondent Police subject to following conditions:-

1) The Petitioner shall appear before the IO as and when called for and co-operate with IO in the investigation of the present case.

2) The Petitioner shall not tamper with the Prosecution witnesses in any manner.

3) The Petitioner shall produced Adhaar Card/Identity Card, contact number, residential address and occupation and also photos of the Petitioner and the surety while executing bail bond.

4) The Petitioner shall appear before the Court on the dates of hearing if called for.

5) The Petitioner shall not leave the jurisdiction of this Court without prior permission.

6) The Petitioner shall not change his residence without prior permission of the Court.

[Dictated to the Stenographer, thereafter transcribed and typed by the Stenographer and the same was corrected, signed and then pronounced by me in the open Court on this the **16th day of December 2020**].

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

Orders pronounced in open court
as under (vide separately):-

ORDER

The Petition filed by the Petitioner under Sec.438 Cr.P.C., is hereby allowed.

The Respondent Police are hereby directed to release the Petitioner/accused No.1 Sri. Ganesh.M S/o Murthy in the event of his arrest in Cr.No.255/2020 on execution of personal bond for a sum of Rs.1,00,000/- with one surety for likesum to the satisfaction of Respondent Police subject to following conditions:-

1) The Petitioner shall appear before the IO as and when called for and co-operate with IO in the investigation of the present case.

2) The Petitioner shall not tamper with the Prosecution witnesses in any manner.

3) The Petitioner shall produced Adhaar Card/Identity Card, contact number, residential address and occupation and also photos of the Petitioner and the surety while

executing bail bond.

4) The Petitioner shall appear before the Court on the dates of hearing if called for.

5) The Petitioner shall not leave the jurisdiction of this Court without prior permission.

6) The Petitioner shall not change his residence without prior permission of the Court.

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

