

**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 08<sup>th</sup> day of December, 2020**

**Crl.Misc.No.25984/2020**

**Crl.Misc.No.25985/2020**

**Crl.Misc.No.25986/2020**

**Crl.Misc.No.25987/2020**

**Crl.Misc.No.25988/2020**

**Petitioners**

1. **Jayasheel G.**  
**@ Jayasheela Reddy,**  
S/o Sri. Gopal Reddy,  
Aged about 42 years,  
Residing at No.5, 1<sup>st</sup> Cross,  
Near New Baldwin School,  
Venkataramaiah Layout,  
Dodda Banaswadi,  
Bangalore-560043.
2. **Smt. Sumitha K,**  
W/o Jayasheel Reddy,  
Aged about 37 years,  
Residing at No.5,  
1<sup>st</sup> Cross, Near New Baldwin  
School, Venkataramaiah Layout,  
Dodda Banaswadi,  
Bangalore-560043.

**[By Sri. Prathap Yadav R.  
Advocate]**

-Vs-

**Respondent:** 1. State by  
**Banaswadi Police Station,  
Bengaluru City.**

**[By Public Prosecutor]**

**COMMON ORDER ON PETITIONS U/S. 438 OF  
Cr.P.C. FILED BY THE PETITIONERS**

The petitioners have filed this petition seeking anticipatory bail in the event of their arrest by the respondent police with respect to the offence punishable U/s 504, 506, 420 IPC.

2. The brief facts of the case is that the petitioner No.1 is the proprietor of Benaka Land Developers situated at No.44, 2<sup>nd</sup> floor, 10<sup>th</sup> main, 100 feet Road, Banaswadi, Bangalore and the petitioner No.2 is the wife of the petitioner No.1. The petitioner No.1 entered in to Marketing Agreement on 08/02/2013 with the M/s. Ganga Properties represented by its proprietor Mr. Gangalingeshwara Reddy, for marketing the sites in 5 acres of land out of 15 acres situated at Kannuru Village Kasaba Hobli, Hosakote Taluk.

3. The complainants are the customers of M/s. Ganga Properties. They use to bring the customers to the layout and would take advance amount from the customers in the name of petitioner No.1 for the sale of sites so formed in the layout. But, no payment made to the petitioner No.1 which received by the M/s. Ganga Properties as advance amount from the customers. But, the proprietor of M/s Ganga Properties colluded with the respondent police and threatening to filing complaint against the petitioners and also demanding huge amount from these petitioners.

4. The respondent police has registered a false case against the petitioners in crime No.467/2020 for offence punishable U/s 504, 506, 420 R/w 34 IPC and in the said case the petitioners are obtained an anticipatory bail by filing Crl.Misc No.25890/2020 from the City Civil and Sessions Judge, Mayohall Unit (CCH-29), Bangalore. In spite of this the respondent police threatened the petitioners saying that they will register some other cases on the basis of the complaint.

5. It is stated by the petitioners that, they are innocent and no way connected to the crime. It also stated that the complainant approached the respondent police, so the police called these petitioners and threatened them come forward to give huge amount and if the petitioners refused to give the amount then the PI will register more cases on them.

6. It is stated that till this day the complainant not issued any notice to the petitioners and not conducted any legal proceedings. But, all of you sudden the petitioners are having apprehension of arrest by the respondent police.

7. They have stated that they are permanent resident of Bangalore and they are ready to abide any of the conditions imposed by this Hon'ble court. Accordingly petitioners prays for grant of anticipatory bail.

8. The learned PP has filed his objections stating that, no case has been registered against the petitioners except the case in Crime No.467/2020 by Subramanyapura police in crime No.150/2020 and by Banasawadi police in crime No.467/2020 and in these cases petitioners already obtained the anticipatory bail.

9. Heard the arguments. Perused the records available before the court.

10. The points arose for my consideration are:-

1. Whether the petitioners are entitled for anticipatory bail u/s 438 of Cr.P.C.?
2. What order?

11. My findings to the above points are under:

Point No.1: In the **Affirmative**

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

### **REASONS**

12. **Point No.1:-** According to the Petitioner No.1 is the absolute owner of 15 acres of DC converted land situated at Kannuru Vilalge, Kasaba Hobli, Hosakote Taluk out of which 5 acres of land is formed as layout by the petitioner. In this regard there is an agreement between the petitioner No.1 with the M/s. Ganga Properties. The customer used to come through M/s. Ganga properties and those customer use to pay advance amount to M/s. Ganga Properties. But, they have not made payment to the petitioner No.1.

13. The complaint has been lodged by the customers against these petitioners alleging that the petitioners are failed to executed Registered Sale Deed in their favour. On the other hand the petitioner close the office and not receiving the call. Further, they refused to return the amount. In this regard, one customer M. Sudhakar already lodged a complaint against the petitioners before the Banaswadi Police Station and urging that this petitioner No.1 cheated him.

14. It is urge by the petitioners that, at the instigation of proprietor Mr. Gangalingeshwara Reddy, the respondent police may arrest them.

15. The petitioners are under the apprehension of that, the respondent police may arrest them in this event they will suffer irreparable loss and injury. Merely because no fresh case has been registered against the petitioners except 2 cases by Banaswadi Police station and Subramanyapura Police station, it can't be said that there is no chance of apprehension.

16. The petitioners reasonably believed that they may have arrested by the respondent police in a offence which non-bailable in nature.

17. There is a catena of decisions that the filing of FIR is not a condition precedent to the exercise of the power U/s 438, Cr.P.C. The imminence of a likely arrest founded on a reasonable belief can be shown to exist even if an FIR not yet filed.

**(AIR-1980 Supreme Court 1632 between Gurbaksh Singh  
Sibbia V/s State of Punjab)**

“The powers U/s 438 of Cr.P.C. can also be exercised without there being a FIR being registered against the petitioners. But the petitioners have to fulfill certain conditions to show that it is not an order of blanket bail issued to them and the circumstances warrant that they are entitled to be protected by means of anticipatory bail.

18. By looking in to the facts and nature of the case it reflects that there are reasons to believe that the petitioners may be arrested for non-bailable offence. The petitioners are ready to abide any of the conditions imposed by this court. So I am of the opinion that there is reasonable ground to grant an anticipatory bail to the petitioners by imposing conditions. According I

answered point No.1 in the Affirmative.

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

### **ORDER**

The petitions filed by the petitioners **Sri. Jayasheel G. @ Jayasheel Reddy and Smt. Sumitha K U/s 438** of the Cr.P.C. is hereby allowed with the following conditions.

The petitioners are granted with anticipatory bail with respect to the offence punishable U/s 504, 506, 420 IPC.

1. The petitioners shall surrender themselves before the I.O within the 15 days from the date of this order.
2. petitioners shall execute personal bond for a sum of Rs.1,00,000/- with two solvent sureties for the likesum to the

satisfaction of IO.

3. The petitioners shall not directly or indirectly make any inducement, threat to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.
4. Petitioner shall appear before the IO whenever summoned for the purpose of investigation.
5. Petitioner shall not leave the jurisdiction of the court without prior permission.

(Dictated to the Stenographer, transcribed and computerized by her, corrected and then pronounced by me in the open court on this the 8<sup>th</sup> day of December, 2020)

**(Smt. K.G. SHANTHI)**  
LVII Addl. CC& Sessions Judge,

M.H.Unit, Bengaluru.

Order pronounced in open court  
(vide separate order)

**COMMON ORDERS**

The petitions filed by the petitioners **Sri. Jayasheel G. @ Jayasheel Reddy and Smt. Sumitha K U/s 438** of the Cr.P.C. is hereby allowed with the following conditions.

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