

KAMD010041412022



**IN THE COURT OF II ADDL. DISTRICT & SESSIONS
JUDGE, MANDYA**

Dated this the 25th day of October 2022

PRESENT

**Sri Krishna Prasad Rao K. B.A., L.L.B.,
II Addl. District & Sessions Judge, Mandya.**

Crl.Misc.No.1008/2022

- Petitioners :
1. Sanjaykumar B.P. @ Sanjay S/o Puttaswamy,
Aged about 23 years.
 2. Nagendra S/o Kempegowda,
Aged about 24 years.

Both are R/at Boppasamudra Village,
Chikkarasinakere Hobli, Maddur Taluk,
Mandya District.

(By Sri K. Lokesha, Advocate)

-Vs-

Respondent: State by K.M.Doddi Police Station.

(By Smt. B.M.Veena, Public Prosecutor, Mandya)

ORDER

This petition is filed by the petitioners under Section 438 of Cr.P.C. seeking a direction to respondent-police to release them on bail in the event of their arrest in Cr.No.269/2022 registered by respondent-police for the offences

punishable under Sections 448, 504, 354, 323, 324, 506 r/w Section 34 of I.P.C.

2. Brief facts that led to this petition are as under:

One Sakamma W/o Rajalinga, lodged first information before the respondent police stating that on 25.09.2022 at 10-00 p.m. when herself, her husband, children and Rathnamma were having dinner in the house, petitioners after taking alcohol came near their house, abused them in filthy language. When she came out of the house and asked them why they are abusing, both of them told that they will finish her, broken the door of the house, petitioner No.1 trespassed into the house, pushed her, pulled her saree and from the iron rod voluntarily assaulted on her head causing bleeding injuries. When she fell down, her husband came to her rescue, petitioner No.1 from the same iron rod tried to assault on his head. He escaped, the assault fell on the left neck. Her children Satish and Doddaiiah were assaulted by petitioner No.2 on their body. Petitioner No.1 assaulted on the left knee of Satish from iron rod and left knee of Doddaiiah, causing pain. When Rathnamma came to pacify, petitioner No.1 pulled the saree of Rathnamma assaulted on the right forehead of Rathnamma from iron rod. Petitioner No.2 was instigating petitioner No.1 to kill them. Ningaraju B.H., Ningaraju D. & Prashanth pacified the quarrel. Thereafter she was taken to the K.M.Doddi Hospital & provided treatment. Thereafter she was brought in ambulance to District Hospital, Mandya and after taking treatment filing the complaint belatedly. Hence, she lodged first information to take action against the accused persons.

3. Based on the said information, the respondent-police has registered F.I.R. against the accused for the above said offences. Now, the petitioners who are accused of commission of offences alleged, apprehending their arrest at the hands of respondent-police, has filed this petition seeking pre-arrest bail on the following amongst other grounds:

The petitioners are innocent of the offences alleged and they being framed into unfortunate crime for no complicity of them. The allegation attributed against the petitioners are all concocted figments of the imagination of the Complainant to facilitate to register this false complaint. There is no motive for the alleged crime. The present complaint is an after thought theory and concocted theory of the Complainant to rope in the petitioners into this false case and harass them by registering this false case. The alleged offences are not made punishable with death or life imprisonment. The petitioners have considerable roots in the society owing both movable and immovable properties within the jurisdiction of this Court. All the offences are triable by Magistrate. The petitioners and the Complainant are residents of the same village and there is a civil dispute between them. They have undertaken to abide any terms and conditions that may be imposed by this Court while granting bail.

4. The bail petition is opposed by learned Public Prosecutor by filing objections along with report of the I.O. It is contended that the petitioners have taken law into their hands. There is a prima-facie case against them. At this stage, if the petitioners are released on bail, there are chances of them giving threat to witnesses, destroying evidence, abscond permanently and cause delay in disposal of the matter. Hence, prayed to reject the petition.

5. Heard both the sides. Perused the report of I.O.

6. The following points arise for my determination:

1. Whether the petitioners have made out sufficient grounds for grant of anticipatory bail?

2. What order?

7. My findings to above points are:

Point No. 1: In the Affirmative.

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

REASONS

8. **POINT No.1:** The petitioners along with petition have produced certified copies of F.I.R. and information in Cr.No.269/2022.
9. The petitioners are arraigned as accused in the F.I.R. and they are accused of commission of offences punishable under Sections 448, 504, 354, 323, 324, 506 r/w Section 34 of I.P.C. As the offences under Sections 354 and 324 of I.P.C. are cognizable, apprehension of accused-petitioners of their arrest is well founded. As such, they can maintain this petition.
10. The learned counsel for petitioners argued that the petitioners have not committed any offences as alleged by the Informant. There is civil dispute between the parties. The Informant has lodged false information against the petitioners. On the other hand, the learned P.P. submitted that there is a prima-facie case against the petitioners. If they are released on bail, there are chances of petitioners giving threat to witnesses, destroying evidence, abscond permanently and cause delay in disposal of the matter.
11. The allegations made against the petitioners are that, they abused the Informant by using filthy words and assaulted Complainant, her husband and her sons. It is the contention of the petitioners that there is civil case pending between the petitioners and Informant. The allegations made against the petitioners have to be proved at full-fledged trial. The offences alleged against the petitioners are not made punishable either with death or imprisonment for life. The alleged offences are triable by Magistrate. They have undertaken to abide by any terms and conditions. There are no allegations of accused-petitioners having criminal antecedents. In the facts and circumstances made out, considering the gravity of the offences, this Court is of the view that, the

petitioners are entitled for an order of pre-arrest bail. Apprehension of prosecution can be met by imposing stringent conditions and by obtaining sufficient sureties to the satisfaction of the Court. Hence, I hold that the petitioners are entitled for an order of anticipatory bail. Accordingly, point under consideration is answered in the **Affirmative**.

12. **POINT No.2:** In view of my discussions and finding to above point, I proceed to pass the following:

ORDER

Petition filed by accused/petitioners under Section 438 of Cr.P.C. is hereby allowed.

Consequently, in the event of arrest of petitioners in Cr.No.269/2022 of K.M.Doddi Police Station, they are ordered to be released on bail, on their executing personal bond for a sum of Rs.50,000/- each and with one surety for likesum to the satisfaction of the Investigating Officer/Police Officer on the following conditions:

1. The petitioners shall appear before the Investigating Officer within 15 days from the date of this order and in that event Investigation Officer to take bonds and to release them.
2. They shall appear before Investigating Officer as and when called upon and extend fullest co-operation in the investigation.
3. They shall not give threat to the prosecution witnesses in any manner.
4. They shall not indulge in similar offences in any manner.

(Typed to my dictation by Judgment Writer directly on Computer, corrected by me and then pronounced in the open Court on this the 25th day of October 2022)

(Krishna Prasad Rao K.)
II Addl. District & Sessions Judge,

Mandya.

Order pronounced in the open Court,
Vide Separate Order Passed:

ORDER

Petition filed by accused/petitioners under
Section 438 of Cr.P.C. is hereby allowed.

Consequently, in the event of arrest of petitioners in Cr.No.269/2022 of K.M.Doddi Police Station, they are ordered to be released on bail, on their executing personal bond for a sum of Rs.50,000/- each and with one surety for likesum to the satisfaction of the Investigating Officer/Police Officer on the following conditions:

1. The petitioners shall appear before the Investigating Officer within 15 days from the date of this order and in that event Investigation Officer to take bonds and to release them.
2. They shall appear before Investigating Officer as and when called upon and extend fullest co-operation in the investigation.
3. They shall not give threat to the prosecution witnesses in any manner.
4. They shall not indulge in similar offences in any manner.

II ASJ, MANDYA.