

KAMD010040932022



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

Dated this the 14th day of October, 2022

PRESENT

Smt.Nirmala.K, B.A., M.L.,
IV Addl. District & Sessions Judge,
Mandya.

Crl.Misc.No.994/2022

- Petitioners :
1. Yadhu @ Mohan Kumar S/o Krishnegowda, Aged about 33 years, R/o Vaddarahalli Village, Bindiganavile Hobli, Nagamangala Taluk, Mandya District. **(Accused No.1)**
 2. Kirana @ Kiran Kumar S/o Lakshmana, Aged about 28 years, R/o Vaddarahalli Village, Bindiganavile Hobli, Nagamangala Taluk, Mandya District. **(Accused No.2)**
 3. Madhu @ Madhu Kumar S/o Lakshmana, Aged about 26 years, R/o Vaddarahalli Village, Bindiganavile Hobli, Nagamangala Taluk, Mandya District. **(Accused No.3)**
 4. Kantharaju S/o Late Nanjundegowda, Aged about 54 years, R/o Vaddarahalli Village, Bindiganavile Hobli, Nagamangala Taluk, Mandya

District. **(Accused No.4)**

5. Krishnegowda S/o Late Nanjundegowda, Aged about 58 years, R/o Vaddarahalli Village, Bindiganavile Hobli, Nagamangala Taluk, Mandya District. **(Accused No.5)**
6. Punitha @ V.K.Punith S/o Krishnegowda, Aged about 35 years, R/o D.No.22, 3rd Floor, 1st main road, 3rd Cross, V.H.V.C.S. Layout, Mahalakshmipuram, Bengaluru North, Bengaluru. **(Accused No.6)**
7. Lakshmana S/o Late Nanjundegowda, Aged about 57 years, R/o Vaddarahalli Village, Bindiganavile Hobli, Nagamangala Taluk, Mandya District. **(Accused No.7)**
8. Devaraju S/o Late Gangadhargowda, Aged about 61 years, R/o Vaddarahalli Village, Bindiganavile Hobli, Nagamangala Taluk, Mandya District. **(Accused No.8)**
9. Ramanna @ Ramegowda S/o Late Gangadhargowda, Aged about 72 years, R/o Vaddarahalli Village, Bindiganavile Hobli, Nagamangala Taluk, Mandya District. **(Accused No.9)**
10. Vasantha @ Vasanthamma W/o Ramesha, Aged about 49 years, R/o Machanayakanahalli Village, Nagamangala Taluk, Mandya District. **(Accused No.10)**
11. Yashodha @ Kumari W/o N.Chikkanna, Aged about 44 years, R/o D.No.12/7, Siddalingeshwara Layout, Vidyananyapuram, Bengaluru. **(Accused No.11)**

12. Anu @ Anuradha D/o Ramesh, Aged about 31 years, R/o D.No.63, 1st Floor, 2nd house, 12th Cross, Shivanagar, Rajajinagara, Bengaluru North, Bengaluru. **(Accused No.12)**

13. Asha W/o Krishnegowda, Aged about 50 years, R/o Vaddarahalli Village, Bindiganavile Hobli, Nagamangala Taluk, Mandya District. **(Accused No.13)**
(Rep. by Sri.Natesha.K.B-Adv.)

-Vs-

Respondent : State by Bindiganavile Police.
(Rep. by learned Public Prosecutor)

ORDERS ON PETITION FILED U/Sec.438 OF Cr.P.C.

This petition is filed under Section 438 of Cr.P.C. praying to grant anticipatory bail in Cr.No.96/2022 registered by respondent-police for the offences punishable under Sections 143, 147, 504, 323, 324, 354 r/w 149 of IPC against petitioners/**accused Nos.1 to 13.**

2. BRIEF FACTS:

It is the case of complainant that on 23.09.2022 petitioners/accused persons had assaulted her father in spite, he had divided the family properties. They had changed khatha in their names. Some properties were in the joint khatha. In this regard all the petitioners/accused persons formed an unlawful assembly, picked up quarrel with her, abused in filthy language, assaulted with their hands and club and outraged her modesty and caused her grievous injuries. Hence, the complaint.

3. GROUND FOR ANTICIPATORY BAIL:

The petitioners submit that, they are innocent and have not committed any such offences. They are agriculturists. Further they submit that, there is no previous criminal antecedents. The offences alleged are not punishable with death or imprisonment for life. They are permanent residents of the given addresses. They are ready to abide by any conditions that would be imposed by this court. Accused persons have filed case against the a/m and Bindiganavile police have registered FIR in their Cr.No.98/2022. Hence, the petition.

4. OBJECTIONS:

On the other hand, in pursuance of court notice, **learned Public Prosecutor** entered appearance and filed her objections statement along with Investigating Officer report reiterating the complaint averments. This court has to take into various requirements as stated by Hon'ble Supreme Court decision reported in **(2011) 3 S.C.C. (Cri.) page 765**. The investigation is still under progress. At this stage, if the petitioners are released on bail, there is every possibility that they would tamper the prosecution witnesses and they would abscond from the court. Under these circumstances. she prays for rejecting the bail petition.

5. Heard **arguments** on both sides and perused the materials on record.

6. From the above facts following **points arise for my consideration:**

1. Whether the petitioners/accused No.1 to 13 have made out sufficient grounds for grant of anticipatory bail under Section 438 of Cr.P.C. as prayed for in the petition?

2. What order?

7. My **findings** on the above points are as follows:

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

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

REASONS

8. **Point No.1:** Learned counsel for petitioners submit that they are innocent and have not committed any alleged offences. The learned Public Prosecutor submit that prima-facie, there are sufficient materials available against the petitioners. At this stage, itself it is pre-mature to hold that petitioners have committed the alleged offences. The alleged offences are neither punishable with death nor imprisonment for life. There is civil dispute between the parties. At this stage, it is relevant to consider that the alleged offences are triable by Magistrate. There are no previous criminal antecedents against the petitioners. Learned Public Prosecutor has not produced any materials to show that they are habitual offenders. It is seen that they are permanent residents of given address, so, the chances of fleeing away from the jurisdiction of the court is very remote. Moreover, they have undertaken to abide by any conditions that would be imposed by this court. Therefore, in the facts and circumstances of the case made out, considering the gravity of the offences and punishment prescribed, I am of the opinion that the petitioners are entitled for pre-arrest bail,

especially taking into account, the principle that, **bail is a rule and jail is an exception.** Moreover, the facts disclose no prima-facie case against the petitioners. Under these circumstances in the interest of equity and justice, I am of the considered view that at this stage petitioners are entitled for anticipatory bail. Accordingly, I answer point No.1 in the **Affirmative.**

9. **Point No.2:-** For the foregoing reasons, I proceed to pass the following :-

ORDER

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

Consequently, in the event of arrest of petitioners/accused No.1 to 13 in Cr.No.96/2022 of Bindiganavile Police Station, they are ordered to be released on bail, on their executing personal bond for a sum of Rs.1,00,000/- 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 bond and to release them.

2. They shall appear before Investigating Officer as and when called upon and to 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.

(Dictated to the Stenographer, transcribed and computerized by her and transcript corrected by me and then pronounced in open Court on this the 14th day of October, 2022.)

(Nirmala.K.)

IV Addl. District & Sessions Judge,
Mandya.

Orders pronounced in Open Court
(Vide my separate order)

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IV ASJ,
Mandya.