

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

Present :- Sri. K.M. Rajashekar, B.Sc., L.L.M.,

Dated this the 30th day of August 2021

Crl.Misc.No.25934/2021

- Petitioners:** 1. Prakash,
S/o Krishnappa,
Aged about 50 years,
2. K. Ramesh,
S/o Krishnappa,
Aged about 51 years,
3. Smt. Deepa,
W/o Prakash,
Aged about 35 years,

Petitioner No.1 to 3 are
R/at No.224,
Reddy Colony,
Yamaluru,
Bengaluru.

(By pleader : Sri. H.R. Ravichandra)

V/s

Respondent: The State of Karnataka,
Marathahalli Police Station,
Bengaluru.

(By Public Prosecutor)

ORDERS

The Petitioners/Accused have approached this Court under Section 438 of Cr.P.C., for grant of anticipatory bail in the event of his arrest in Crime No.369/2019 (C.C.No.58715/2019) of Marathahalli Police Station, for the offences punishable under Section 323, 326, 341, 504, 506 r/w Section 34 of Indian Penal Code (I.P.C.).

2. The allegations are that, on 1.9.2019 at about 4.00 p.m., the somebody have plucked guvava from the tree of the Petitioners, for that the Petitioners have abused them in filthy language and have kept stones on the road in front of the house of the Complainant. When the Complainant questioned it, the Petitioners picked up quarrel with him, Accused No.1 brought wooden stick and assaulted the Complainant and caused bleeding injuries. Hence, the complaint.

3. The Petitioners have contended that, they are innocent of the charges leveled against them and they have not committed any offence much less the alleged one. The Petitioners apprehending the serious threat of arrest and illegal detention by the Respondent Police. The Petitioners hails from a respectable family. The Petitioners/Accused and their family members will be put to hardship in case of their arrest and

detention by them. The Petitioners/Accused are ready to abide by the conditions imposed by the Court. Hence, sought for bail.

4. The learned Public Prosecutor seriously opposed the bail application on the ground that, the petition is not maintainable either in law or on facts. Absolutely no grounds were made out for granting bail. There are sufficient materials available on record to hold prima-facie case against the accused person in respect of the alleged offences. The investigation of this case is already completed and the IO has filed charge sheet in the present case and if the accused person was enlarged on bail, there are every possibility of absconding of accused, repetition of similar offences, tampering the prosecution witnesses and they may not be available for the trial, that may be hamper the investigation and trial of this case. Hence, sought for dismissal of the bail applications.

5. Heard the arguments of both sides and perused the records.

6. That on the above said facts, the following points arise for my determination are:-

1. Whether the Petitioners have made out sufficient grounds for granting anticipatory bail U/S 438 of Cr.P.C.,?

2. What order?

7. My findings on the above points are as under:

Point No.1: In the Affirmative;

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

REASONS

8. **Point No.1** :- Upon going through the materials available on record, it is seen that, there is a petty issue regarding plucking of guava and the Petitioners have picked up quarrel with the Complainant and assaulted with wooden stick etc. Moreover, the offences alleged against the Petitioners are triable by the Magistrate Court. There is delay of one day in lodging complaint, which is not properly explained. In the present case, the Investigation Officer has completed the investigation and filed charge sheet. The Petitioners apprehend their arrest by the Respondent Police. Added to that, Petitioner No.3 is a lady. The Petitioners and their family members will be put to hardship in case of their arrest and detention by them. Under these circumstances, I am of the opinion that, Petitioners may be enlarged on bail on imposing certain appropriate stringent conditions.

9. Further, it is pertinent to note that their Lordships of

Hon'ble Supreme Court in the decision reported in **2014(3) KCCR 1977 (SC) between Arnesh Kumar Vs., State of Bihar and another** was pleased to hold as under:

“Arrest brings humiliation, curtails freedom and cast scars forever. Law-makers know it so also the police. There is a battle between the lawmakers and the police and it seems that police has not learnt its lesson; the lesson implicit and embodied in the Cr.P.C. It has not come out of its colonial image despite six decades of independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasized time and again by Courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive.”

The said proposition of law is squarely applicable to the case on hand. Under the facts and circumstances of this case and also considering the probable hardship that may be caused to the Petitioners/Accused and their respective family members in their absence, I am of the opinion that the Petitioners have made out grounds for granting anticipatory bail. However, the apprehension of the prosecution regarding the non-availability for trial, tampering witnesses etc., could be easily met with by imposing appropriate stringent conditions. Under the facts and circumstance of this case, I am of the opinion that Petitioners are entitle for bail and it is deemed fit to grant the benefit of anticipatory bail to them. Accordingly, Point No.1 is answered in

Affirmative.

10. **Point No.2**: In the light of above discussions, I proceed to pass the following:

ORDER

The petition filed U/S 438 of Cr.P.C., by the Petitioners/Accused No.1 to 3 is allowed.

In the event of their arrest, the Petitioners/Accused No.1 to 3 shall be enlarged on bail in Crime No.369/2019 (C.C.No.58715/2019) of Respondent Police Station, on execution of personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand) each along with a surety for the likesum, subject to following conditions:

- 1) The Petitioners/Accused No.1 to 3 shall not tamper with the prosecution evidence or witnesses in any manner and shall co-operate with the investigation.
- 2) They shall not commit similar offences in future.

(Dictated to the Stenographer directly on computer, typed & computerized by her, corrected and signed by me and then pronounced in the open Court on this the **30th** day of **August 2021**).

[K.M. Rajashekhar],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

Order pronounced in the Open Court
(vide separate order)
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[K.M. Rajashekhar],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.