

**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 18th day of August 2021

Crl.Misc.No.25886/2021

Petitioner: Mary Greta,
D/o Anthony,
Aged about 39 years,
R/at No.24,
Muninagappa Layout,
Saraipalya, Vidyasagar,
Saraipalya,
Bengaluru-560077.

(By pleader : Sri. H.N.C. Kumar Gowda)

V/s

Respondent: State by;
Hennur Police Station,
Bengaluru.

(By Public Prosecutor)

ORDERS

The Petitioner/Accused has approached this Court under Section 439 of Cr.P.C., for grant of regular bail in Crime No.104/2021 of Hennur Police Station, for the offences punishable under Section 307, 504, 506 of Indian Penal Code (I.P.C.).

2. The allegations are that, the Petitioner is residing opposite to the Complainant's house and there was water problem in the said locality. Whenever water tank comes to supply water, the Petitioner used to pickup quarrel with the driver of the tanker and troubling to supply of water saying that she is a social worker and the driver has to hear her words. On 31.12.2020 at about 12.30 noon, when the tanker came in front of the house of the Complainant, the Petitioner again picked up quarrel with the driver of the water tanker, abused in filthy language, made injuries to one Reema Devi and Driver by throwing stones. In this regard, the Petitioner went to jail in a complaint filed by Reema Devi. Even after coming from jail the Petitioner used to threaten the Complainant and one Reema Devi with dire consequences to withdraw the complaints filed by them. Hence, the complaint.

3. The Petitioner has contended that, she is innocent of the charges leveled against her and has got valid and tenable defense. She has not committed any offences or involved in the alleged crime either directly or indirectly but she has been falsely implicated in the above case at the instigation of the Complainant and the Respondent Police. The voluntary

statements were recorded by the police were drawn by the police as per their whims and fancy to suit their case and to implicate the present innocent Petitioner. There is no eye-witnesses to the incident and the complaint is an afterthought one. The Petitioner hails from respectable family and has no bad antecedents or previous convict or any case pending against her. The Petitioner/Accused and her family members will be put to hardship in case of her arrest and detention by them. The Petitioner/Accused is 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 Prosecution in its objection has contended that the Petitioner is involved in 08 other cases for different offences. The investigation of this case is still under progress 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 she

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 Petitioner has made out sufficient grounds for granting anticipatory bail U/S 439 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, this incident arose in the background of petty quarrel between Complainant and Accused person with regard to the supply of water. Even though, it is claimed by the Prosecution that several cases were registered

against this Petitioner regarding quarreling with neighbours. It also seen that this Petitioner has also lodged several complaints against her neighbors. Hence, as rightly claimed by the Petitioner's Counsel, there are some petty quarrel regarding sharing water, usage of road and other silly reasons. There is two days delay in registering the FIR which is not explained. However, it is seen that the Petitioner is a woman, aged about 39 years. It is claimed by the Petitioner that, no serious injuries found on any of the vital part of the injured person which is sufficient to take away the life of a human to attracts provision of Section 307 of I.P.C. Therefore, the ingredients of Section 307 of I.P.C. does not attract. Apart from that, it is reported by learned PP that, the injured/victim is already discharged from the hospital. The Petitioner/Accused is in Judicial custody since 30.06.2021, as such, herself and her family members will be put to hardship in case of her further detention. As rightly claimed by the learned Counsel for the Petitioners that, the Petitioner is women aged about 39 years, therefore, the probable hardship of Petitioner/Accused if she is detained further in custody cannot be ruled out. In the present case, the victim is already discharged from the Hospital. There is one delay in lodging FIR, which is not explained in the present case. Under these circumstances, I am

of the opinion that, Petitioner/Accused in the above said petition 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 Petitioner/Accused and her family members in her absence, I am of the opinion that the Petitioner in the said petition has made out grounds for granting 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 Petitioner is entitle for bail on the ground of parity and it is deemed fit to grant the benefit of bail to him. 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 439 of Cr.P.C., by the Petitioner/Accused is allowed and she is ordered to be released on bail in Crime No.104/2021 by the Respondent Police, on executing personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) along with two sureties for the like sum, subject to following conditions:

1) The Petitioner/Accused shall not tamper with the prosecution evidence or witnesses in any manner and she shall co-operate with the investigation.

2) The Petitioner shall not indulge in similar offences in future.

3) The Petitioner/Accused shall mark her appearance before the I.O. weekly twice preferably on every Monday and

Saturday between 10:00 a.m., to 11:00 a.m., till further orders.

4) The Petitioner/Accused shall appear before the Court on all dates of hearing.

If any of the conditions are violated, the bail granted to her automatically stands canceled. The Police Authorities are at liberty to take her to custody in case of violation.

(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 **18th** 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,
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