

**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 19th day of August, 2021.

Crl.Misc.No.25904/2021

Petitioner/ Accused No.4	<i>Yaseen Khan</i> (His full name is Mohammed Yaseen Khan), S/o. Raffiq Khan, Aged about 26 years, R/at No.70, Near Play well School, 5 th Main, 5 th Cross, Kushal Nagara, K.G.Halli, Arabic College Post, Bangalore-560 045. (By Sri. <i>M.Chidananda Murthy</i> - Adv.)
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/Vs./

**Respondent/
Complainant**

State by **KG Halli**
Police Station, Bengaluru City.

[By Public Prosecutor]

**ORDER ON PETITION u/S. 439 Cr.P.C FILED BY
THE PETITIONER/ACCUSED No.4**

The respondent-police registered the case in Crime No.125/2021 against the Petitioner and others for the offence punishable u/Ss.143, 147, 148, 302, 323 and r/w 149 of IPC.

2. The brief facts of the case is that, on 15-04-2021 at about 8:30 pm the complainant brother told he received a phone call, after receiving the phone call the complainant brother went outside. At about 9:40 pm one Smt. Shahnaaz called the complainant and told that, her children and complainant brother are quarreling, instructed to come early. The complainant and another brother Faraz were going to the spot on the way at about 9:50pm somebody called over phone and told that the persons named kashif, Nasir Khan, Ayub Khan, Yasin Khan and Mohin Khan chasing the complainant brother, the complainant brother escaped

from the clutches of the said persons, he ran away to the 1st floor of Bismillah stores, 10th Cross, Kushalnagar, Bengaluru. They followed to the said first floor and injured by knife Farhaan left ear behind portion and neck, caused heavy injury, they returned from there shouting that “ye margaya saale” means he died. In the meantime the complainant and his another brother reached the Ambedkar hospital. The persons Siddiq and Mohammed Suhaib took the Farhan to Ambedkar Hospital thinking he is alive. Later the Doctor declared the said Farhan is already died. Later they found that left ear behind portion was injured. Hence, the complainant lodge the complaint and the police have registered the case against 6 persons.

3. The petitioner stated that, he is innocent and he has not committed any offence, but police have falsely implicated him in this case. He has stated that he has to take care of his family members and he is

the only bread earner in his family. Further undertakes that he will not tamper the prosecution and he will not abscond. Accordingly, prays for grant of bail.

4. The learned PP filed objection stating that, if for any reason accused person is released on bail he will cause hurdle to the investigation and tamper the witnesses of the prosecution. It is also stated there will be every chance of absconding. Further stated that the offence u/S.302 of IPC is punishable with death or imprisonment for life. Accordingly, prays to reject the bail application filed by the Petitioner.

5. Arguments heard. Perused the records available before the court.

6. The points arose for my consideration are:

1. Whether the petitioner is entitled for regular bail u/S. 439 of Cr.P.C.?
2. What order?

7. 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

8. **Point No.(1):-** According to the complainant her brother received a call at 8:30 pm on 15-04-2021 and event out side the house. Then at 9:40 pm Smt. Shahnaz called the complainant and informed to the complainant there was a quarrel between her children with the brother of the complainant by name Farhan. Hence complainant along with her another brother Faraz left the house to the place of quarrel but at 9:50 pm. She received a call from some persons and come to know that Farhan has been assaulted by Yusuf Khan, Kasif, Nasir Khan, Yasin Khan, Mohin Khan and Ayub Khan and also she received information that they above said persons chased Farhan and made an assault with knife and committed the murder.

9. Complaint lodged on 15-04-2021 at 23 hours. In the complaint, the complainant made an allegation against Yusuf Khan, Kasif, Nasir Khan, Yasin Khan, Mohin Khan and Ayub Khan.

10. On perusal of the complaint and FIR, the name of this petitioner not found place. After registering the case police were deputed to apprehend the culprits. Accordingly, on 20-04-2021 the police have arrested the accused No.1 to 3, 5 and 6. These petitioners arrested when they was with other accused and police have seized the motor cycle. But nothing material seized from this petitioner. The knife used for the commission of the crime is seized by the police based on the voluntary statement accused Mohammed yusuf Khan.

11. The learned PP submitted that the alleged offence punishable with death or life imprisonment and

if the accused is released on bail he may abscond and thereby cause hurdle to the trial.

12. The objection raised by PP is general one.

13. The accused is in J.C. since 22.07.2021. When the Police have investigated the matter the petitioner was not available for investigation and he was absconding. Hence, Police have filed charge sheet showing this petitioner was absconding. Later he arrested by the Police.

14. The Police have filed charge sheet against the accused persons. The accused No.5 and 6 already granted with bail from the hands of this court.

15. There is no allegation against the petitioner that he involved in anti-social activities. Petitioner not appears to be so powerful to interfere or threaten the prosecution witnesses.

16. The apprehension of the prosecution that the Petitioner may tamper the witness of the prosecution and cause hurdle to the trial can be meet out by imposing conditions. With the above discussion, I am of the opinion that, it is a fit case to grant bail to the petitioner by imposing conditions. Accordingly point No.1 is answered in the **Affirmative.**

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

ORDER

The petition filed by the petitioner **Yaseen Khan @ Mohammed Yaseen Khan** S/o. Raffiq Khan u/S.439 of Cr.P.C. is hereby allowed in Crime No.125/2021 of K.G. Halli Police Station, with following conditions.

1) The petitioner shall execute personal bond for Rs.1,00,000/- with one surety for like sum to the satisfaction of the court.

2) He shall not tamper witnesses of the prosecution.

3) He shall not leave the jurisdiction of the court.

4) He shall furnish his residential proof to the satisfaction of the court.

5) He shall not change his place of residence, if he want to change his residence, he shall obtain prior permission from the court and he shall furnish his new address proof.

(Dictated to the Judgment Writer, directly on computer, computerized by her, corrected and then pronounced by me in the open court on this the 19th day of August, 2021.)

(Smt.K.G.SHANTHI)

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

Order pronounced in open court
(vide separate order)

ORDER

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