

**IN THE COURT OF THE XXVI ADDL. CITY CIVIL &
SESSIONS JUDGE, AT MAYO HALL, BENGALURU
(CCH.20)**

Present:

Sri.D.S.Vijaya Kumar, B.Sc, LL.B.,
XXVI Addl. City Civil & Sessions Judge, Bengaluru

Dated this the 21st day of August, 2021

Crl.Misc.No.25919/2021

Petitioner/

Accused No.3:-

Abdul Jameel,
S/o Basha Sahib,
Aged about 61 years,
R/a. 100/2, United Mansion,
6th Main, ITI Layout, Benson
Town, Bengaluru-46.

[By Sri.P.L.S-Advocate]

Vs.

Respondent:-

State by Pulakeshi Nagar Police
Station, Bengaluru City

[By Public prosecutor]

ORDER

The petitioner has filed these bail petition under
section-438 of the Cr.P.C., praying for granting an order

of Anticipatory bail in crime No.130/2019 for the offences alleged under sections 337, 338, 427, 304 read with sec. 149 of the Indian Penal Code, of the Respondent-Pulakeshi Nagar Police Station, Bengaluru, charge sheeted in C.C.No.51974/2021 on the file of XI Additional Chief Metropolitan Magistrate, Mayo Hall Unit, Bengaluru.

2. Brief facts of the bail petition are as under:-

On 10.07.2019 based on the complaint of the Police Sub Inspector of the Respondent Police Station, namely Sudarshan Shetty against the accused persons in Crime No.130/2019 for the offences u/ss. 304, 337, 338, 427 read with Sec. 34 of the Indian Penal Code. Now, based on the false complaint, Respondent Police are making attempt to arrest him in the case. It is also stated that, he is a

Civil Engineer. There is no fault on the part of the Petitioner. Now the investigation is completed and charge sheet is filed and his earlier bail petition in Crl.Misc.No.25758/2019 is dismissed. Offences alleged do not attract to him. He is a reputed businessmen holding goodwill in the Society and if he is arrested he will be humiliated and malign and his reputation will be spoiled in the society. No specific overtact is attributed to him. Although offences are non bailable, they are not exclusively punishable with imprisonment for life or death. He does not have any antecedents of involvement in any criminal activities in his entire life. He hails from respectable family and he undertakes to abide by any condition and offer surety and cooperate with the investigation and he will not flee from justice and hence, he should be granted an order of Anticipatory bail.

3. Objection filed by the prosecution to the petition is as under:

On the basis of the complaint lodged by the PSI of the Respondent Police station, Respondent Police have registered a case in Crime No.130/2019 for the offences punishable U/ss. .304, 337, 338, 427 read with Sec. 34 of the Indian Penal Code, against the Building owner, contractor, engineers, BBMP officers and others. As could be seen from the complaint, in crime No.130/2019 of Pulakeshi Nagar Police Station which is registered for the above said offences, the accused persons have committed the offences. Now after completion of the investigation charge sheet is filed. The petitioner who is arrayed as Accused No.3 in the charge sheet is absconding. Accused persons of the case have put up similar substandard quality construction in other places. In view of the incident

six persons have died and six others have sustained grievous injuries and two are taking treatment as inpatients and about 20 families have been thrown out to the street. Building contractors are absconding and if Petitioner who is a Civil Engineer is enlarged on bail it may hamper arrest of other accused persons. Therefore, Petitioner is not entitled to an order of anticipatory bail as sought for. Hence, the learned Public Prosecutor has sought for rejection of the bail petition.

4. Heard arguments.

5. In the circumstances, following points arise for determination are:

1) Whether the petitioner is entitled to an order of anticipatory bail as sought for?

2) What order?

6. My findings on the above points are under:

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

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

R E A S O N S

7. Point Nos.1 to 4:- FIR in Crime No. 130/2019

has been registered by the Respondent Police on 10.07.2019 by the Respondent Police for the offences U/ss.304, 337, 338, 427 read with Sec. 34 of the Indian Penal Code, against Building owners, Contractors, Engineers, BBMP Officials and others on the report submitted by Police Sub Inspector by name Sri.Sudarshan Shetty of the Respondent Police station, regarding collapse of the building No.39 and 40 at Pulakeshi Nagar. As per the Report submitted by the PSI Sudarshan Shetty on 10.07.2019 at 8 AM to the S.H.O on 9.07.2019 he was on patrolling duty and at round 2.10 AM he received a call from the

Police Control Room about collapse of a building on Hutchins Road 2nd cross in Pulakeshi Nagar. He immediately along with other staff rushed to the spot and found that five storied building in site No.39 had collapsed and the construction workers of the building who were resting thereat had got trapped under the collapsed building. Further, as a result of fall of the building bearing No.39, an adjacent apartment bearing No.40 had also collapsed and some people in the said apartment had also got trapped under the collapsed building. He immediately informed the Fire force and they arrived at the spot and removed the dead body of one Shambu who had got trapped under the collapsed building and died. He suspected that some more may have died and there was possibility of people sustaining grievous injuries, having got trapped in the collapsed building. Vehicles parked in the

building and the compound walls of the neighbour houses had got damaged. In the report PSI Sudarshan Shetty has further alleged that because the owners and contractors of the said buildings had not taken proper care and put up sub standard construction, buildings have collapsed and therefore, action should be taken against the owners of the buildings, contractors, engineers and officials of BBMP who gave permission for construction. On the said report FIR as above is registered. After completion of the investigation charge sheet is filed for the offence punishable under sections 337, 338, 427, 304 read with sec. 149 of the Indian Penal Code. Petitioner is arrayed as Accused No.3 in the charge sheet.

8. In this case, investigation is complete and charge sheet is filed. As per charge sheet version and material available on record, six persons have died

due to the collapse of two buildings, and three persons have died being trapped in the basement of the building in property no.39. The petitioner who is a Contractor of the construction of the building subject matter of this case, is still absconding and not cooperated with investigation. His earlier bail petition is also dismissed and even after filing the charge sheet no changed circumstances have been made out for granting an order of Anticipatory Bail. Also, the entire enclosures of the charge sheet is not produced for perusal. Only title sheet is produced.

9. Apart from that it is to be noted that building has not collapsed due to any natural calamities such as earthquake or flood, etc., but it has collapsed due to human error and due to negligence in overseeing the construction and due to substandard construction work. In these circumstances, I am of opinion that the petitioner who is a contractor is not

entitled to an order of Anticipatory bail. Hence, I am of opinion that it is not a fit case to grant an order of anticipatory bail in favour of the petitioner. Consequently, point no.1 is answered in the **negative**.

10. Point No.2: On the above findings, I proceed to pass the following:-

ORDER

Bail petition filed by the petitioner/
Accused no.3 under Sec.438 of the Cr.P.C
is **hereby dismissed**.

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(Dictated to the Stenographer, transcribed by him, then corrected and pronounced by me on this the **21st day of August,2021**)

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(D.Vijaya Kumar)
XXVI Addl.CC & SJ, M.H.Unit,
Bengaluru.

(Order pronounced vide separate order)

O R D E R

Bail petition filed by the petitioner/
Accused no.3 under Sec.438 of the Cr.P.C
is hereby dismissed.

(D.Vijaya Kumar)
XXVI Addl.CC & SJ, M.H.Unit,
Bengaluru.

