

**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 2nd day of July, 2021.

Crl.Misc.No.25731/2021

Petitioners s:-

1. Pavan
S/o Sunil.N.,
Aged about 23 years,
R/a. No.127, Near Maramma
Temple, Gunjur Palya, Gunjur,
Bengaluru -560 087.
2. Pradeep Kumar.M.,
S/o Mannunatha.U.,
Aged about 27 years,
No.67, Opp : Mariyamma
Temple, Gunjur Palya, Gunjur,
Bengaluru – 560 087
3. Ajay Kumar,
S/o Anjinappa,
Aged about 22 years,
No.152, Gunjur, Gunjur Palya,
Bengaluru-87

[By Sri. DGS-Adv.]

Vs.

Respondent:- State of Karnataka, by
Marathahalli Police Station,
Bengaluru

[By Public Prosecutor]

ORDER

This is a Petition filed by the Petitioners 1 to 3 under Sec.439 of the Cr.P.C., praying for granting Regular Bail in Cr.No.137/2021 registered by the respondent-Marathahalli police for the offences punishable under Sections-399 and 402 of Indian Penal Code and Sec.25 of the Arms Act, 1959.

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

Respondent Police have falsely implicated them in the case. They are totally innocent of the offences alleged against them, but they have been falsely implicated in the case. There is no iota of evidence produced by the complainant police against the Petitioners. Accused Nos.1 and 2 have

been granted bail by this court in Crl.Misc. No. 25676/2021 vide Order dtd.16.06.2021. Petitioners voluntarily surrendered before the court and now are in judicial custody. The offences are not punishable with imprisonment for life or death. They undertake to abide by any conditions that may be imposed by the court. On all these grounds, Petitioners have sought for granting an order of Anticipatory bail in their favour.

3. The objection filed by the prosecution to the petition is as under:-

The Respondent Police have registered a case in Crime No.137/2021 for the offences punishable under sections 399 and 402 of the Indian Penal Code and Sec.25 of the Arms Act, 1959. Investigation is still under progress. Petitioners have committed the alleged offences. If the Petitioners are released on

bail, they may destroy the prosecution evidence and may further abscond. Hence, on these grounds, learned Public Prosecutor has sought for rejection of the bail petition.

4. Heard arguments.

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

1. Whether the Petitioners 1 to 3 are entitled to an order of Anticipatory bail, as sought for?

2. What order?

6. My findings to the above points are under:

Point No.1 :- In the **affirmative**

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

R E A S O N S

7. Point No.1:- As per the FIR registered in Crime No.137/2021 on 04.06.2021 for the offences under

sections-399 and 402 of Indian Penal Code and Section-25 of Arms Act,1959, by the Respondent Police, on 04.06.2021 at 6.00 PM, the informant police officer received information about some 5-6 persons are attempting to rob the people near vacant space, Bellanduru Railway Gate, Panathur, in the jurisdiction of the Respondent Police station and went over to the spot with panch witnesses and raided the place. At that time, four among six persons ran away and police apprehended the remaining two persons. Accused persons were in possession of weapons. On search they seized seven longs, one dragger and two Two wheeler vehicles from the spot. The I.O. seized the weapons and vehicles at the spot in the presence of the witnesses and registered the FIR.

8. I have heard arguments and considered the rival contentions.

9. In the FIS, it is alleged that on the suspicion that accused might commit the robbery, information was passed on to the police and when the police went over to the spot, Accused Nos.1 and 2 were found in possession of the above mentioned weapons. Other than that, I.O. has not collected any material to show that indeed the petitioners and their associate attempted to commit robbery. No public has lodged any complaint to the police alleging attempt of robbery by the accused persons. Offences are not punishable with imprisonment for life or death. Also they are in Judicial custody. Accused Nos.1 and 2 in the case have been granted bail in Crl.Misc.No.25676/2021 vide order dtd. 16.06.2021. Hence, these Petitioners who are Accused Nos.3 to 5 are entitled to parity.

10. Having regard to the above facts and circumstances, I am of opinion that petitioners 1 to

3 may be enlarged on bail by imposing appropriate conditions to ensure that they do not interfere with the investigation or cause threat to the prosecution witnesses or abscond from the proceedings. Consequently, Point No.1 is answered in the **affirmative.**

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

ORDER

Bail petition filed by the Petitioners 1 to 3 under Sec.439 of the CR.P.C **is hereby allowed.**

Petitioner Nos.1 to 3 /accused Nos. 3 to 5 in Crime No.137/2021 of Marathahalli Police Station, Bengaluru, are hereby enlarged on bail for the offences punishable under sections 399,

402 of Indian Penal Code and Sec.25 of the Arms Act, 1959, subject to the following conditions:-

1) Petitioners shall not threaten the prosecution witnesses or tamper with the prosecution evidence.

2) Petitioners shall furnish the proof of their address and in case of change in residence, it has to be intimated to the court.

3) Petitioners shall co-operate in the investigation of the case.

4) Petitioners shall not abscond from the trial.

5) Petitioners shall execute personal bond for a sum of Rs.50,000/- each with one surety in like sum to the satisfaction of the Learned 29th Additional Chief Metropolitan Magistrate, Mayo Hall Unit, Bengaluru.

--

(Dictated to the Stenographer, transcribed by him and computerized and then corrected and pronounced by me on this the **2nd day of July, 2021**)

--

(D.S.VIJAYA KUMAR)

XXVI Addl.CC & SJ, Mayo Hall Unit
Bengaluru.

Vk

(Order pronounced vide separate Order)

ORDER

Bail petition filed by the Petitioners 1 to 3 under Sec.439 of the CR.P.C **is hereby allowed.**

Petitioner Nos.1 to 3 /accused Nos. 3 to 5 in Crime No.137/2021 of Marathahalli Police Station, Bengaluru, are hereby enlarged on bail for the offences punishable under sections 399, 402 of Indian Penal Code and Sec.25 of the Arms Act, 1959, subject to the following conditions:-

- 1) Petitioners shall not threaten the prosecution witnesses or tamper with the prosecution evidence.

2) Petitioners shall furnish the proof of their address and in case of change in residence, it has to be intimated to the court.

3) Petitioners shall co-operate in the investigation of the case.

4) Petitioners shall not abscond from the trial.

5) Petitioners shall execute personal bond for a sum of Rs.50,000/- each with one surety in like sum to the satisfaction of the Learned 29th Additional Chief Metropolitan Magistrate, Mayo Hall Unit, Bengaluru.

**(D.S.Vijaya Kumar),
XXVI ACC & S J, Bengaluru**