

**IN THE COURT OF THE XXVIII ADDL. CITY CIVIL & SESSIONS
JUDGE**

Mayo Hall, Bengaluru, [CCH.NO.29]

Present: - Sri. Krishnaji Baburao Patil, B.Com.,LL.B.,(Spl.)

Dated: This the 19th day of August 2020

Crl.Misc.No.25476/2020

- Petitioners:**
1. Arund David,
Aged about 24 years,
S/o Frank Anthony,
R/at 3rd Cross,
Near Railway Gate,
K.G. Halli, Bengaluru.
 2. Mani,
Aged about 25 years,
S/o Babu,
R/at # 107, 4th Cross, Main
Channel Road,
Saraswathipuram,
Jogpalayam, Halasuru,
Bangalore-560 008.

(Pleader By : Sri. T.G. Suresh)

.. Vs ..

Respondent: The State of Karnataka by
Halasuru Police Station,
Bengaluru.

(By Public Prosecutor)

ORDERS

The present Petition is filed by the Petitioners who are the accused No.3 and 5 in this case under Section 439 of Cr.P.C., for bail on the ground that the Respondent Police have registered case in Cr.No.83/2020 against the accused for the offences punishable under Section 307, 109, 120(B) r/w Section 34 of IPC.

2. The case of the Prosecution is that, the Respondent Police registered case based on the complaint given by one Karthik alleging that on 4.5.2020 there was a quarrel between the Complainant and Accused. It was also alleged that on 5.5.2020 at about 9.15 p.m., the accused along with other accused persons tried to attack the Complainant near B.B. Bakery, CMH Road, the Complainant ran away from the place and rescued himself from the accused. When he was near Murphy Town at about 10.00 p.m., the accused persons came on two two wheelers and surrounded the Complainant and threatened the Complainant that he will take away his life and took out machete and long and attacked the Complainant on his head and other parts of the body with an intention to kill him.

3. The Petitioners have contended that they are innocent of the offences alleged against them. The entire material placed before the Court are not sufficient to hold that this Petitioners have committed any offences as alleged by the prosecution. There is no enmity between the Petitioners and the Complainant. The Petitioners have no motive to kill or attempt to kill the Complainant. The Petitioners have got valid and tenable defence. The Petitioners are ready to furnish surety to the satisfaction of the Court to release them on bail. They are ready and willing to undertake to abide any conditions imposed by this Court. The Petitioners are the permanent resident of Bangalore City. After completing investigation, the Respondent Police have already filed charge sheet in this case. The Petitioners have got deep roots in the society and they are law abiding and peace loving citizen and hailing from respectable family. The Complainant was not having grievous injury and he already discharged from the hospital long back. If the Petitioners are enlarged on bail, they will regularly attend the Court. The Petitioners may not tamper the prosecution witnesses and they will not flee from justice. Hence, prayed to allow the petition.

4. For the said application the PP has filed objections reiterating the contents of the complaint and further contended that the offences alleged against the Petitioner are grievous in nature and punishable with life imprisonment. If the Petition is allowed, there is every chance of tampering the prosecution witnesses. The Petitioner No.1/accused No.3 is involved in six other cases punishable with Section 307, 392, 394, 341 324, 323, 504 at different Police Stations. He is a rowdy-sheeter. The Petitioner No.2/accused No.5 is involved in seven other cases of different Police Stations. If the Petition is allowed, there is every chance of their abscondance. The Petitioners have filed Crl.Misc.No.25403/2020 for the same relief and the said petition was dismissed by this Court on 3.8.2020. Hence, prayed to dismiss the petition. Along with the objection PP has filed CD in this case.

5. On the basis of the above, the point that arises for my consideration are:-

- 1) Whether the Petition deserves to be allowed?
- 2) What order?

6. My answer to the above points are :

Point No.1 : In the Negative.

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

REASONS

7. The offences alleged against the Petitioners are under Section 307, 109 120(B) r/w Section 34 of IPC. Admittedly, Petitioner No.1 and 2 who are accused No.3 and 5 have filed Crl.Misc.No.25403/2020. The said petition was dismissed by this Court by order dtd: 3.8.2020. In the present petition, the Petitioner No.1 and 2 have not at all stated about the earlier petitions. They have not pleaded any changed circumstances in the present case. As already held by this Court, the accused appears to be habitual offenders. The Petitioner No.1 is involved in six different cases of heinous offence. The Petitioner No.2 who is accused No.5 is involved in seven cases of different Police Station. From this it is clear that the Petitioners have not approached this Court with clean hands. The present case is registered against the Petitioners on the basis of the complaint dtd: 6.5.2020 and admittedly on 4.5.2020, the Petitioner No.2 had filed complaint against the present Complainant and other

accused. Considering the facts and circumstances of the present case, if the Petitioners are released on bail, there is every chance of involving in similar offences and also there is chance of their abscondance. In the present case, still accused No.4 and 6 are absconding. In the present case, the IO has filed charge sheet after completing investigation. Since, already this Court has dismissed the bail petition of accused No.1 and 2 and as there is no changed circumstances to consider the bail petition of Petitioner No.1 and 2 afresh, this Court is of the view that the Petitioner No.1 and 2 are not entitled for bail. Under these circumstances, this Court is of the view that the Petitioners/accused are not entitled for bail at this stage. Hence, I answer Point No.1 in the Negative.

8. **Point No.2:-** In the result, this Court proceeds to pass the following:-

ORDER

The Petition filed by the Petitioner No.1 & 2/accused No.3 and 5 Arun David and Mani under Sec.439 Cr.P.C., is hereby dismissed.

[Dictated to the Stenographer, thereafter transcribed and typed by the Stenographer and the same was corrected, signed and then pronounced by me in the open Court on this the **19th day of August 2020**].

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

Orders pronounced in open court
as under (vide separately):-

ORDER

The Petition filed by the Petitioner No.1 & 2/accused No.3 and 5 Arun David and Mani under Sec.439 Cr.P.C., is hereby dismissed.

[Krishnaji Baburao Patil],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.