

**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 October, 2021

Crl.Misc.No.26062/2021

Petitioners:-

1. Zuhaib Khan
Aged about 25 years,
S/o Late Munawar Khan
2. Husna Begum,
Aged about 46 years,
W/o Mohd. Shafi

Both are R/a. No.13, Aftab
Building, Flat No.6, Bamboo
Bazaar Road, Bengaluru

[By Sri.SAW-Adv.]

Vs.

Respondent:-

State By K.G.Halli Police Station,
Bengaluru.

[By Public Prosecutor]

ORDER

The Petitioners 1 and 2 have filed application under section 438(2)(i) of the Cr.P.C., praying for relaxing Condition No.1 in the bail order dtd.21.01.2020 passed in Crl.Misc.No.25034/2020.

2. Brief facts of the application are as under:-

The Petitioners have obtained the relief of Anticipatory Bail passed in Crl.Misc.No.25034/2020 vide order dtd. 21.01.2020 and the same was complied before the Respondent Police Station for the alleged offences punishable under sections 383, 380, 390, 420, 506, 504, 341 read with sec. 34 of Indian Penal Code. In the said order condition no.1 is that the Petitioners shall give attendance before the I.O. of the Respondent Police Station on every alternate Sunday of the month till filing the final

report. The petitioners attended before the I.O. regularly except during the active Covid-19 pandemic. But, the Respondent Police are calling and exerting pressure to attend the Police Station regularly even now at the instructions of the complainant. On these ground, the Petitioners have sought for relaxing the said condition no.1 in the bail order.

3. Objections filed by the prosecution to the above application, are as under:-

This court has granted Anticipatory Bail to the Petitioners vide order dtd.21.01.2020 on conditions. Without complying the said conditions though they have stated in the bail application that they will comply with all the conditions, now came up with this application which is liable to be dismissed. Due to non cooperation of the Petitioners, investigation

could not be completed. At this stage, Petitioners are not entitled for the relief sought for by them. Hence, on these grounds, learned Public Prosecutor has sought for rejection of the above application.

4. Heard arguments and also perused the records.

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

1) Whether the Petitioners 1 and 2 are entitled for relaxing the condition No.1 in the bail order dtd. 21.01.2020 passed in Crl.Misc.No.25034/2020 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:

REASONS

7. Point No.1:- Petitioners have produced the certified copy of order dtd. 21.01.2020 passed in Crl. Misc.No.25034/2020 along with bail petition therein.

8. The petitioners have been granted an order of Anticipatory Bail in Crl.Misc.No.25034/2020 by order dtd. 21.01.2020 by imposing conditions that they should give attendance before the Respondent Police Station on the alternate Sunday of the month till filing of the charge sheet or final report. Admittedly, as submitted by the Learned counsel for the petitioners, petitioners have not given any attendance before the I.O. of the Respondent Police Station for about one year in view of Covid-19

Pandemic. Thereafter, it is stated that they have appeared before the Respondent Police, but again they have stopped appearing and now they have filed this petition seeking relaxation of the Condition No.1, whereunder they have been given direction to appear before the I.O. and give attendance. It is contended by the Learned counsel for the petitioners that the Petitioners cannot be directed to give attendance indefinitely and therefore condition No.1 should be relaxed. Whereas, in the statement of objections, the prosecution contends that the petitioners have not produced the articles which they have taken away from the informant's house, even though notices were issued to them. Thus, it is contended that the Petitioners are not extending cooperation in the investigation of the case. The Petitioners counsel admits that the I.O. had issued several notices to the

petitioners calling upon them to produce the articles taken away by them from the informant's house and that the petitioners have not produced the same before the I.O.

9. Considering the above facts, it is seen that the petitioners have not complied with the Condition no.1 of the bail order in letter and spirit. They have appeared only after about one year of the bail order, of course, in view of the Covid-19 pandemic. But, thereafter, again they have stopped appearing before the I.O. and also the petitioners have not complied with the direction of the I.O to produce the articles taken away by them from the informant's house. Hence, having regard to the above facts and circumstances, I am of opinion that this is not a fit case to relax the Condition No.1 imposed in the bail

order dtd. 21.01.2020 in Crl.Misc.No.25034/2020 as sought for, since the petitioners are not cooperating in investigation and not producing the articles taken away by them from the informant's house and investigation has not yet completed. Also the condition imposed for appearing before the I.O. on alternative Sunday is not indefinite, but it is only till filing of the charge sheet or final report. The said condition also requires the petitioners to extend full cooperation in investigation. But, the petitioners are not extending co-operation in the investigation on untenable grounds. Consequently, Point No.1 is answered in the **negative**.

10. Point No.2: In the result I proceed to pass the following:-

ORDER

Application filed by the Petitioners
under section 438(2)(i) of the Cr.P.C. **is**
hereby dismissed.

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

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(D.S.Vijay Kumar)
XXVI ACC & SJ, Mayo Hall,
Bengaluru.

(Order pronounced vide separate order)

ORDER

Application filed by the Petitioners
under section 438(2)(i) of the Cr.P.C. **is
hereby dismissed.**

(D.S.Vijaya Kumar)
XXVI ACC & SJ, Mayo Hall,
Bengaluru.