

**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. LL.M.*,
LVII Addl.City Civil & Sessions Judge,
Bengaluru.

Dated this the 16th day of October, 2021.

Crl.Misc.No.26052/2021

Petitioner/ Accused	<i>Prathap @ Prathap Kumar B.C.,</i> S/o. Chamundi, Aged about 29 years, R/at No.26, 2 nd Cross, 2 nd Main, Bennaganahalli, Old Madras Road, Bengaluru. (By <i>Sri.M.V.Murthi</i> , Adv.)
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Crl.Misc.No.26058/2021

Petitioner/ Accused	<i>Shivaprasad @ Shiva,</i> S/o. Madhurai, Aged about 29 years, No.403, 'B' Block, Paras Mane Apartment, Dubasi Palya, Kengeri, Bengaluru. (By <i>Sri.Narayanaswamy</i> , Adv.)
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/Vs./

**Respondent/
Complainant**

State by **Indiranagara
Police Station, Bengaluru City.**

[By Public Prosecutor]

COMMON ORDER ON PETITION u/S. 439 Cr.P.C

The respondent-police filed a charge sheet against the accused persons for the offence punishable u/Sec.364(A) r/w. 34 IPC. Based on complaint later, the respondent Police filed a charge sheet for the offence punishable U/Sec. 120(B), 364(A), 302, 201 r/w. 149 IPC.

2. The brief facts of the case is that, one Smt.Hema filed a complaint alleging that one Ambarish visited the complainant house on and often and demanded Rs.1,00,00,000/-. By that time she asked the Ambarish not to interfere in her business. That on 5.7.2021 he daughter and husband were in the house at 12-15 noon and Ambarish came to their house and talking with her husband and demanded money. After some time, her

husband went from the house in a Motorcycle by taking Rs.70,000/- alongwith mobile phone. At 2'O Clock he made a vedio call to his daughter and spoken with her and said that he was taking food along with five people in a Daba near Hosakote, but his voice was with fear and later Mobile phone of her husband was switched-off. Complainant waited for 2 to 3 days, but her husband not returned. Hence, she lodged a complaint to Indiranagar Police on 09.07.2021 complaining that her husband was missing. Later, he come across that Ambarish was kidnapped her husband for money. So, Police have received the complaint and registered the case in Crime No.136/2021 for the offence punishable U/Sec.364(A) r/w. 34 IPC.

3. Police have investigated the matter and recorded the voluntary statement of accused persons and came to know that the accused persons along with others participated in a case of Varthur Prakash. On

investigation it come to know that the these petitioners and others hatched a plan to kidnap the Vijay Kumar for money and when their desire not full-filled they decided to commit the murder of Vijay Kumar and the accused persons committed the murder of Vijay Kumar and thrown the dead body in a forest at Konganapalli near Hosur. Accordingly, Police have registered the case for the offence punishable U/Sec.120(B), 364(A), 302, 201 r/w. 149 IPC.

4. The petitioners contended that they are innocents and not having criminal back-ground.

5. The Petitioner in Crl.Misc.No.26052/2021 stated that he is doing hotel business and he is the only person in the family to earn. He also stated that he is having aged parents, wife and children, who are totally depending on him for their livelihood.

6. The petitioner in Crl.Misc.26058/201 stated that he is only son to his parents and he is the only bread winner to his family.

7. Petitioners in both the petitions stated that they are the permanent residents of Bangalore and they are ready and willing to abide of any of the conditions imposed by this court while enlarging them on bail. Further stated that they are ready to furnish surety for their appearance before the court. Accordingly, prays to grant bail.

8. The learned PP filed objection stating that, if for any reason accused persons are released on bail they 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. 120(B), 364(A), 302, 201 r/w. 149 IPC, which is punishable with death or imprisonment for life.

Accordingly, prays to reject the bail application filed by the Petitioners.

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

10. The points arose for my consideration are:

1. Whether the petitioner in Crl.Misc.No. 26052/2021 is entitled for bail u/s 439 of Cr.P.C.?

2. Whether the petitioner in Crl.Misc.No. 26058/2021 is entitled for bail u/s 439 of Cr.P.C.?

3. What order?

11. My findings to the above points are under:-

Point No.(1): In the Negative,

Point No.(2): In the Negative,

Point No.(3): As per final order
for the following:

REASONS

12. **Point No.(1) and (2):-** Initially based on the complaint filed by the wife of the deceased Vijay

Kumar, Indiranagar Police registered the case for the offence punishable U/Sec.364(A) r/w. 34 of IPC. Later on investigation and based on the voluntary statement of the accused persons, police have continued their investigation and come to know that accused Ambarish along with others committed the murder of Vijay Kumar and thrown the dead body to Konganahalli forest, near Hosur. Accordingly, Sections 302, 201, 120(B) r/w. 149 IPC included. The complaint dated.26.07.2021 reflects that the wife of the deceased lodge a complaint before Indiranagar Police stating that her husband was missing and in the complaint he has stated that on 5.07.2021 accused Ambarish came to her house and demanded money. Later, her husband left the house in a motor cycle with cash of Rs.70,000/- and a mobile phone. But he has not returned to home.

13. The petitioner in Crl.Misc.26058/2021 Shivaprasad is the accused No.6 arrested on

30.07.2021. Petitioner in Crl.Misc.No.26052/2021 by name Prathap @ Prathap Kumar is the accused No.8 arrested on 11.08.2021 by the Police.

14. The Prosecutor filed his objection stating that, accused No.1 to 3 and 5 to 7 are absconding. The main accused persons are absconding and thereby caused obstruction for the investigation. The report reflects that the accused persons are having criminal background and they are moving with criminal gang.

15. The alleged offences are triable before the Court of Sessions. By looking into the nature and seriousness of the offence, it reflects that the accused Ambarish used to visit the house of complainant and demanded money from her husband. The deceased left the house with money and he called to his daughter from Daba near Hosakote and informed that he was taking meal along with others and his voice was with

fear. By looking into the overall circumstances I am of the opinion that if these petitioners granted with bail there is every chance of absconding and fleeing from justice. There is a chance that they will cause hurdle to the investigation and it make difficult to the Police to trace-out other absconding accused persons and there is a chance of tampering the prosecution witnesses. So by considering the larger interest of the society and also in order to protect the interest of the complainant, I am of the opinion that at this stage it is fit to reject the bail application filed by the petitioners. Accordingly, point No.1 and 2 answered in **Negative**.

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

ORDER

The petition filed by the petitioner
Prathap @ Prathap Kumar (Crl.Misc.No.
26052/2021) and petitioner Shivaprasad

@ Shiva (Crl.Misc.No.26058/2021)
u/Sec. 439 of Cr.P.C. are hereby
rejected.

(Dictated to the Judgment Writer, directly on
computer, computerized by her, corrected and then
pronounced by me in the open court on this the 16th
day of October, 2021.)

(Smt.K.G.SHANTHI)
LVII Addl. C.C.& Sessions Judge,
M.H.Unit, Bengaluru.

Order pronounced in open court
(vide separate order)

ORDER

The petition filed by the petitioner Prathap @ Prathap Kumar (Crl.Misc.No.26052/2021) and petitioner Shivaprasad @ Shiva (Crl.Misc.No. 26058/2021) u/Sec. 439 of Cr.P.C. are hereby rejected.

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