

**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 20th day of October 2020

Crl.Misc.No.25746/2020

Petitioner: Mr. Darshan Bathija,
Son of Mr. Parmanand Bathija,
Aged about 32 years,
Resident of
Bommanahalli,
Bangalore-560 068.

(Pleader By : Sri. Nikhil Krishnamurthy)

.. Vs ..

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

(By Public Prosecutor)

ORDER

The present Petition is filed by the Petitioner who is the accused No.2 in this case under Section 438 of Cr.P.C., for anticipatory bail in the event of his arrest in Cr.No.159/2020 for the offences punishable under Section 420, 504, 506(B) r/w

Section 34 of IPC.

2. The case of the Prosecution is that, the Accused No.1 Company i.e., Officepulse Technologies Private Limited, was incorporated on 22.12.2017 and is in the business of providing end-to-end service of procuring workplace assets and consumables through a technology platform to enterprise clients. The Petitioner, Accused No.3 and 4 became the founder/directors of the company by way of Co-founders Agreement dtd: 22.12.2017. Due to certain differences between the Petitioner and Accused No.3 and 4, the Petitioner wished to part ways with accused No.1, 3 and 4. The Petitioner has resigned from the Company on 4th April 2020 and the same was considered at the Board Meeting dtd: 14th April 2020. the resignation of the Petitioner was accepted and as on 20th April 2020 the Petitioner ceased to be the director of the Accused No.1 Company. On the basis of the complaint filed by the Complainant in PCR No.53223/2020 on 12.8.2020 before the X ACMM, Bengaluru, the Respondent has registered an FIR against the Petitioner who is the ex-director and current directors of the Company Officepulse i.e., Accused No.1, 3 and 4 seeking

cognizance under Section 420, 504, 506(B) r/w Section 34 of IPC. The Complainant in PCR No.53223/2020 has averred that the Accused had approached the Complainant in May 2018 for supply of tissue rolls and office use materials and that all payments towards supply of these products have been made till first week of August 2019. The Complainant stated that he has supplied various office materials on different dates and under different invoices from 29.8.2020 to 2.1.2020 amounting to Rs.8,93,555/- and that after part payment, Rs.8,34,284/- is pending. The Complainant has alleged that he requested the Accused to make payments on several occasions, however he has not received any reply and that the Accused are evading payments, thereby cheating the Complainant. The Complainant has averred that he approached the Accused on 9.7.2020 and 22.7.2020, but was threatened that he would kill him with the help of rowdy elements. The Complainant approached the Police for registration of FIR but the police took the statements and recorded the same in NCR. Further, the Complainant has sought the X ACMM Court, Bengaluru, to take cognizance on the ground that Halasuru Police are not conducting any inquiry and that

they have not shown any interest in the complaint of the Complainant. The X ACMM Court, Bengaluru, vide order dtd:31.8.2020 has referred the complaint to Halasuru Police Station for investigation under Section 156(3) of Code of Criminal Procedure, 1973. Based on this reference, the Halasuru Police have registered an FIR and are making hectic efforts to apprehend the Petitioner without any property investigation. The Halasur Police has issued notice under Section 41 of Cr.P.C., and may arrest the Petitioner anytime.

3. The Petitioner has contended that he is innocent of the alleged offences levelled against him and he has got valid and tenable defense in his favour. The alleged transaction is purely civil in nature. The allegations made against the Petitioner is totally false, frivolous, concocted and fabricated one. The Respondent Police are making hectic efforts to arrest the Petitioner in the above said case. The petitioner is permanent resident of the address given in the cause title. The Petitioner undertake to co-operate with the investigating officer during the course of investigation. The Petitioner is ready to abide by any conditions that may be imposed by this Court and ready to

furnish surety to the satisfaction of the Jurisdictional Magistrate. Hence, prayed for allow the Petition.

4. For the said application the PP has filed objections contending that the contents of the petition are false and baseless. On the basis of the private complaint filed by the Complainant a case is registered against the accused by Halasur Police Station in Cr.No.159/2020 for the offences punishable under Section 420, 504, 506(B) r/w Section 34 of IPC. The investigation of this case is at primary stage. The Petitioner might tamper the prosecution evidence and win over the witnesses if he is enlarged on bail. There is chance of his abscondance and committing similar offences. Hence, prayed to dismiss the Petitioner.

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 Affirmative.

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

REASONS

7. The offences alleged against the Petitioner are under Section 420, 504, 506 r/w Section 34 of IPC. The present case is arising out of private complaint filed by the Complainant in PCR No.53223/2020. The offences alleged against the Petitioner are not punishable with death or imprisonment for life. The present Petitioner is accused No.2 in the present case. The allegation made against the Petitioner are more of the civil in nature. At this stage, no offence under Section 420 of IPC is made out by the Prosecution. All the offences alleged against the Petitioner are exclusively triable by the Court of Magistrate. Considering the facts and circumstances of this case, this Court is of the view that the Petitioner is entitled for anticipatory bail as prayed for in the present petition. The Petitioner has contended that he is residing in the address mentioned in the cause title of the petition. The Petitioner is ready to abide by the conditions imposed by this Court and also ready to furnish surety to the satisfaction of the Respondent Police in the event of his arrest.

This fact is not denied by the Prosecution. The apprehension of the Prosecution can be met with by imposing certain conditions. Under these circumstances, this Court is of the view that the Petitioner is also entitled for bail as prayed in the petition. With this observation, I answer Point No.1 in the Affirmative.

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

ORDER

The Petition filed by the Petitioner under Sec.438 Cr.P.C., is hereby allowed.

The Respondent Police are hereby directed to release the accused Mr. Darshan Bathija S/o Mr. Parmanand Bathija in the event of his arrest in Cr.No.159/2020 of Halasur Police Station for the offences under Section 420, 504, 506 r/w Section 34 of IPC on execution of personal bond for a sum of Rs.1,00,000/- with one surety for likesum to the satisfaction of Respondent Police subject to following conditions:-

- 1) The Petitioner shall appear before the IO as and when

called for and co-operate with IO in the investigation of the present case.

2) The Petitioner shall not tamper with the Prosecution witnesses in any manner.

3) The Petitioner shall produced Adhaar Card/Identity Card, contact number, residential address and occupation and also photos of the Petitioner and the surety while executing bail bond.

4) The Petitioner shall not leave the jurisdiction of this Court without prior permission.

5) The Petitioner shall not change their residence without prior permission of the Court.

[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 **20th day of October 2020**].

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

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

ORDER

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

