

**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 13<sup>th</sup> day of October, 2020.**

**Crl.Misc.No.25736 &  
Crl. Misc.No.25748/2020**

**Petitioner** Mohammed Shahid  
**in Crl.Misc. No** S/o Mohammed Nayaz  
**25736/2020:-** Aged about 19 years,  
R/a. Horapete Circle, 2<sup>nd</sup> Cross,  
Tumkur District  
Pin :572 102.

[By M/s.Lex Noorain Assn-Adv]

Vs

**Petitioner** Khaleel @ Khaleel Ulla  
**in Crl.Misc. No** S/o Abdul Azeem @ Hussain,  
**25748/2020:-** Aged about 57 years,  
R/a No.503, Deepthi Residency,  
3<sup>rd</sup> cross, Ambedkar Medical  
College Road, Ratan Singh Layout,  
kaval Byrasandra,  
Bangalore-560 032.

[By Mohamed Wazeer & Assn-Adv]

Vs

**Respondent:-** State by Bharati Nagar  
Police Station, Bengaluru City

[By Public prosecutor]

### **COMMON ORDER**

Petitioner in Crl.Misc.No.25736/Accused No.7 and Petitioner in Crl.Misc.No.25748/Accused No.6 have filed these bail petitions under section-439 of the Cr.P.C., praying for granting an order of Regular bail in respect of the offences alleged under sections-363, 364A and 384 of Indian Penal Code, in Crime No.104/2020 of the Respondent-Bharathi Nagar, Bengaluru.

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

Respondent Police have falsely implicated them in the case. They are totally innocent of the offences alleged against them. They are in judicial custody. Offences are not punishable with

imprisonment for life or death. They have valid and tenable defence. They have not committed any offences as alleged. Other accused persons have been granted bail by this court in Crl.Misc. Nos.25609/2020, 25620/2020, 25657/2020 and 25670/2020. Hence, on the ground of parity they are entitled for bail. Thus, petitioners have sought for enlarging them on bail.

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

Respondent Police have registered a case in Crime No.104/2020 for the offences under section-363 of the Indian Penal Code of Indian Penal Code, against the Accused persons. Investigation is still under progress. Petitioners have committed the above offences. If the petitioners are released on bail, they may abscond permanently and also commit

similar offences and abscond from trial. The Offences are punishable with death or imprisonment for life. Hence, on these grounds, learned Public Prosecutor has sought for rejection of the bail petitions.

4. Heard arguments and also perused the records.

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

1. Whether petitioner in Crl.Misc. No.25736/2020 and petitioner in Crl.Misc.No.25748/2020 are entitled to an order of Regular 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:-** In the first instance, on the complaint filed by the informant that his son by name Mohammed Umar Ali aged about 11 years is missing from 27.08.2020, respondent police have registered FIR in Crime No.104/2020 for the offence under section 363 of Indian Penal Code and subsequently, I.O. has submitted a requisition to the Learned 11<sup>th</sup> ACMM, Bangalore on 28.08.2020 for incorporating the offences under sections 364A and 384 of Indian Penal Code, by stating that when the matter was under investigation informant again approached the police on 28.08.2020 at 4.40 AM thereby informed that on the same night at 12.50 AM some unknown person made a phone call from the mobile No.2792112544 and told that he has pasted a chit on the door of informant's shop and

disconnected the call. When the informant went and saw the chit pasted on the door of the shop, there was threat posed in the said chit stating that informant's son has been kidnapped and he should pay Rs.2.00 crores to set him free and failing same, he would lose his son. Subsequent to submitting the said report by the I.O. to incorporate the above said offences, on 29.08.2020 police have arrested Accused No.1 and on 28.08.2020 they have arrested Accused Nos.6 to 10. Petitioner in Crl.misc. No.25736/2020 is arrayed as Accused No.7 and Petitioner in Crl.Misc.No.25748/2020 is arrayed as Accused No.6.

8. In the remand application, it is stated that senior police officers formed a Team to trace the accused persons and then above persons were arrested on the information given by informant. According to the remand application, Accused No.1

actually kidnapped informant's son and then approached Accused Nos.8 to 10 to help him by giving SIM card by assuring that he will pay some amount out of ransom that he will get in the deal. By way of advance he paid Rs.500/- and Accused No.10 gave his SIM card.

9. So, from the above said allegations it is seen actually Accused No.1 has himself kidnapped informant's son. At that juncture, it appears there was no participation on the part of other accused persons in committing the crime. But, only subsequent to kidnapping, upon Accused No.1 allegedly seeking help of Accused Nos.8 to 10 to provide SIM card, so that it would not be possible to trace Accused No.1, it is stated that Accused No.10 gave his SIM card.

10. As can be seen from the allegations of the FIS and remand application it is the Accused No.1 who has planned and kidnapped minor child. So, main allegations are actually against Accused No.1. In the remand application, it is stated that when the police team got credible information about the missing child and started chasing the car, in which the child was being taken, persons sitting in the front seat of the car ran away and petitioners/ Accused Nos.7 and 6 respectively were found in the rear seat. Whereas, remand application clearly shows that it is Accused No.1 who actually kidnapped the child. Petitioners Accused Nos.7 and 6 are in judicial custody since 28.08.2020. Remand application shows that they were taken to police custody and thereafter, they have been remanded to the judicial custody. As such, their presence is no longer required for further investigation. As the petitioners



are in custody for more than two months and main allegations are against Accused No.1, I am of opinion that by imposing stringent conditions, petitioners/ Accused Nos. 7 and 6 may be admitted to an order of bail. 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 Petitions filed under Sec.439 of the Cr.P.C by the Petitioner in Crl.Misc.No.25736 and petitioner in Crl.Misc.No. 25748/2020 **are hereby allowed.**

Petitioners/accused Nos.7 and 6 in Crime No.104/2020 of Bharathi Nagar Police Station, Bengaluru, are

hereby enlarged on bail for the offences under sections-363, 364(A) and 384 of Indian Penal Code, subject to the following conditions:-

1) Petitioners/accused Nos.7 and 6 shall not threaten the prosecution witnesses or tamper with the prosecution evidence.

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

3) Petitioners shall not abscond from the trial and commit similar or other offences.

4) Petitioners shall execute personal bond for a sum of

Rs.50,000/-each and furnish one surety in like sum to the satisfaction of the Learned 11<sup>th</sup> Additional Chief Metropolitan Magistrate, Mayo Hall Unit, Bengaluru.

Keep the original of this Order in Crl. Misc.No. 25736/2020 and certified copy thereof, in Crl.Misc.No. 25748/2020.

--

(Dictated to the Stenographer, transcribed by him and computerized and then corrected and pronounced by me in the open court on this the **13<sup>th</sup> day of October, 2020**)

—

**(D.S.VIJAYA KUMAR)**  
XXVI Addl.CC & SJ, Mayo Hall Unit  
Bengaluru.

(Common Order pronounced vide  
separate common Order)

**COMMON ORDER**

Bail Petitions filed under Sec.439 of the Cr.P.C by the Petitioner in Crl.Misc.No.25736 and petitioner in Crl.Misc.No. 25748/2020 **are hereby allowed.**

Petitioners/accused Nos.7 and 6 in Crime No.104/2020 of Bharathi Nagar Police Station, Bengaluru, are hereby enlarged on bail for the offences under sections-363, 364(A) and 384 of Indian Penal Code, subject to the following conditions:-

1) Petitioners/accused Nos.7 and 6 shall not threaten the prosecution witnesses or tamper with the prosecution evidence.

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

3) Petitioners shall not abscond from the trial and commit similar or other offences.

4) Petitioners shall execute personal bond for a sum of Rs.50,000/-each and furnish one surety in like sum to the satisfaction of the Learned 11<sup>th</sup> Additional Chief Metropolitan Magistrate, Mayo Hall Unit, Bengaluru.

Keep the original of this Order in Crl. Misc.No. 25736/2020 and certified copy thereof, in Crl.Misc.No. 25748/2020.

**(D.S.VIJAYA KUMAR)**  
XXVI Addl.CC & SJ, Mayo Hall Unit  
Bengaluru.

