

IN THE COURT OF THE IV ADDL. CITY CIVIL AND SESSIONS
JUDGE MAYOHALL UNIT, BENGALURU (CCH-21)

Dated: This the 31st day of July 2020

PRESENT:

Sri. MOHAMMED MUJEER ULLA C.G. B.A. LL.B.
IV Addl. City Civil and Sessions Judge, Bengaluru
(CONCURRENT CHARGE)

C. MISC. 25456/2020

PETITIONERS :	1. SRI. MOHAMMED SUBHAN, <i>S/o. Mohammed Khaleel,</i> <i>Aged about 32 years</i> <i>R/at: No.30, 13th Cross,</i> <i>Govindapura Main Road,</i> <i>A.C.Post, Bangalore – 560 045.</i> 2. SRI. ZUBAIR AHAMED, <i>S/o. Rafiq Ahamed,</i> <i>Aged about 29 years,</i> <i>R/at: 4th Cross, Pillanna Garden,</i> <i>3rd Stag, A.C.Post, Bangalore – 560 045.</i> 3. SRI. AZHAR @ ASGHAR <i>S/o. Rahamath,</i> <i>Aged about 24 years,</i> <i>R/at: No.36, 17th Cross,</i> <i>Rashad Nagar, A.C.Post,</i> <i>Bangalore – 560 045.</i> 4. SRI. SHAHEED PASHA, <i>S/o. Muzahid Pasha,</i>
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	<i>Aged about 22 years, R/at: No.243, 14th Cross, 7th Street, Opp: St. Joseph School, Govindapura, A.C.Post, Bangalore – 560 045.</i> <i>(SRI. SYED SHIRAZ – ADV)</i>
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V/s

COMPLAINANT :	<i>STATE BY K.G.HALLI POLICE STATION Bengaluru.</i> <i>(PUBLIC PROSECUTOR)</i>
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ORDERS

*Petitioners have filed the instant petition U/Sec.439 of Cr.P.C
for grant of bail.*

2. *The learned Public Prosecutor filed objections.*
3. *Heard the arguments on both side and perused record.*
4. *The point for consideration is:*

Whether the petitioners are entitled for bail?

5. *My finding on the above point is in the **AFFIRMATIVE**
for the following:*

REASONS

6. The case of the prosecution is that on 13.07.2020 at about 9:00 p.m. when the complainant and his friends namely, Zabi, Rizwan and Nayaz were near Kausar Mosque, 14th Cross, Govindapura Road, Bangalore, 4th petitioner Shaheed and another accused by name China Imran came there and quarreled with complainant and assaulted him with hands on face. When the friends of the complainant tried to caught hold them they were escaped. At about 9:30 p.m., 4th petitioner Shaheed and accused China Imran, along with 1st petitioner Subhan, 2nd petitioner Zubair and 3rd petitioner Azhar came there along with knife and longs and assaulted complainant and his friends Zabi, Rizwan and Nayaz. After sustaining injuries, complainant and his friends were escaped. At about 9:40 p.m., when the complainant after taking first aid at Fathima Clinic was proceeding towards Police Station in the motorbike along with his elder brother Imran near Dominic School petitioners 1 to 3 namely, Subhan, Zubair and Azhar stopped them, abused the complainant in filthy words and enquired him whether he

is going to lodge complaint against them. So saying, 3rd petitioner Azhar assaulted complainant with hands. 1st petitioner Subhan assaulted complainant's brother Imran with long on right knee. 2Nd petitioner Zubair assaulted Imran with long on right hand. When the petitioners made attempt to assault complainant, he was escaped. In the complaint it is stated that, petitioners have assaulted complainant and his brother with an intention to commit their murder. In this regard, complainant has given complaint to the SHO of K.G.Halli Police Station on 14.07.2020 at 2:30 p.m. On the basis of the said complaint, the police registered the case in Crime No.195/2020 for the offences punishable u/sec. 143, 147, 148, 323, 324, 341, 504, 307 r/w. 149 of IPC.

7. The learned public prosecutor has filed objection contending that, petitioners with an intention to commit murder of complainant and his brother assaulted them with deadly weapons. The investigation is at a preliminary stage. Another case was registered against the 1st petitioner for the offence punishable

u/sec.379 IPC. At this stage, if the petitioners are released on bail, it will hamper further investigation. The petitioners will tamper with the prosecution witnesses and also abscond. On these and other grounds, the learned Public Prosecutor prays to dismiss the instant petition.

8. *A perusal of record would show that, petitioners were arrested on 20.07.2020 and produced before the jurisdictional Magistrate. The IO sought for police custody. Therefore, the learned Magistrate gave the petitioners to police custody for 4 days. On 21.07.2020, petitioners were produced before the court along with remand report to remand them for judicial custody. Accordingly, the petitioners were remanded to judicial custody. Since then they are in jail.*

9. *The counsel for the petitioners filed memo stating that the petitioners 1 and 2 are doing real estate business under the name and style of Five Star Real Estate. 3Rd petitioner is working as night watchman in the auto stand and the 4th petitioner is working as*

painter. The petitioners have produced their Aadhar cards and ration card of their family. Some of the petitioners have produced the Aadhar cards of their parents and family members. A perusal of the above documents would show that the petitioners are the permanent residents of Bangalore.

10. A perusal of the order sheet of special remand court would show that though the learned Magistrate has remanded the petitioners for police custody for 4 days, the IO kept them in police custody only for one day and produced them before the court on the next day with a request to remand them to judicial custody. From this it could be inferred that the presence of the petitioners is not required to the police for investigation. The weapons alleged to have been used to commit the offence were recovered. In the complaint it is stated that, the petitioners assaulted complainant's brother on right knee and right hand with longs. Having regard to the parts of the body to which injuries were alleged to have been inflicted, it can be said that there is no life risk due to the said injuries.

11. *The learned counsel for the petitioners submits that except this case petitioners are not involved in any other criminal case. The learned Public Prosecutor submits that the presence of 1st petitioner is required for interrogation in connection with Crime No.193/2020 for the offence punishable under section 379 of IPC. In the FIR of the said crime, the name of the 1st petitioner is not noted. The counsel for the petitioners submits that the police are planning to implicate 1st petitioner in some other case to put an impediment for his release on bail.*

12. *As already stated above, the police interrogated petitioners by taking them to police custody and recovered the longs alleged to have been used to assault complainant's brother. The injuries alleged to have been caused by the petitioners to the complainant's brother are not to the vital parts having life risk. Petitioners are the permanent residents of Bangalore having occupations and not having criminal antecedents. Therefore, I am of the view that petitioners can be released on bail by imposing conditions to safeguard the*

apprehension raised by the learned Public Prosecutor. In view of the above, I answer the point for consideration in the **AFFIRMATIVE** and pass the following:

ORDER

*The Petition filed by the petitioners
U/Sec.439 Cr.P.C., is allowed.*

*Petitioners are ordered to be released on
bail in Cr.No.195/2020 of K.G.Halli Police
Station for the offences punishable U/Sec.
143, 147, 148, 323, 324, 341, 504, 307 r/w.
149 of IPC, on execution of bail bond in a sum
of Rs.1,00,000/- with a surety of like sum
each subject to the following:*

CONDITIONS

- 1. Petitioners shall not tamper or intermeddle
with the prosecution witnesses.*
- 2. They shall appear before the IO whenever
called upon to appear by giving notice well
in advance fixing date and time and co-
operate with the investigation.*

3. *They shall not involve in any criminal activities.*
4. *They shall produce Aadhaar Cards/ Identity Cards, contact numbers and photos of themselves and their surety while executing bail bond.*
5. *They shall not leave the jurisdiction of the Court without prior permission.*
6. *They shall not change their residence without prior permission of the Court.*

[Dictated to the Typist, after computerization corrected, signed and then pronounced by me in the open Court on this the 31st day of July 2020]

[MOHAMMED MUJEER ULLA C.G]
C/C 1V Addl. City Civil & Sessions Judge,
Mayo hall, Bengaluru.