

**IN THE COURT OF THE XXVIII ADDL. CITY CIVIL &
SESSIONS JUDGE, Mayo Hall, Bangalore, [CCH.NO.29]**

Present :- Sri. K.M. Rajashekar, B.Sc., L.L.M.,

Dated this the 10th day of November 2021

Crl.Misc.No.26118/2021

Petitioner: Sri. Ranjith,
Aged about 24 years,
Son of Late Mahadeva,
R/at No.131,
Old Binnamangala,
Old Madras Road,
100 Feet Road,
Indiranagar,
Bengaluru-560 038.

(By pleader : Sri. Bhaktavachala)

V/s

Respondent: The State of Karnataka,
Indiranagar Police Station,
Bengaluru.

(By Public Prosecutor)

ORDERS

The Petitioners/Accused No.5 has approached this Court under Section 438 of Cr.P.C., for grant of anticipatory bail in Cr.No.13/2021 of Indiranagar Police Station for the offences

punishable under Section 399 and 402 of Indian Penal Code (I.P.C.).

2. The allegations are that, on 24.1.2021 at about 00.30 a.m., the Complainant Police received a credible information that some five unknown persons in two wheeler motor vehicle were standing in 80 feet Road near Sapna Book House at Indiranagar holding weapons with an intention to commit robbery. Thereafter, the Complainant informed his staff and secured panchas and visited the said spot. The Petitioner along with other accused were holding weapons in an attempt to rob the persons moving on that road by putting them under threat of life. On seeing the Complainant Police, the accused persons tried to escape from the said place. But two accused persons were apprehended and three accused persons escaped from the said place. Hence, the complaint.

3. The Petitioner has contended that he is innocent of the alleged offences. He has been falsely implicated by the Respondent Police in the present case. The investigation is completed and charge sheet has been filed in the present case. The material placed on record does not make out any prima-facie case against the Petitioner. He is not involved in

the alleged offences The Petitioner hails from respectable family and he is the permanent resident of the address cited in the cause title of the petition. The Petitioner is ready to abide by the conditions imposed by this Court and ready to furnish surety to the satisfaction of the Court. He will undertake not to tamper with the prosecution witnesses. Hence, prayed to allow the Petition.

4. The learned Public Prosecutor has adopted the objection filed in Crl.Misc.No.25883/2021 and seriously opposed the bail application on the ground that, for the said Petition the Learned PP has filed objections in detail denying the contents of the Petition specifically as baseless and contended that the offences alleged against the Petitioners are under Section 399 and 402 of IPC. The contents of the FIR and other documents are treated as part and parcel of the objection. The IO after completion of investigation filed charge sheet in the present case. The Petitioner might tamper with the prosecution witnesses which would affect the trial of the case. If the Petitioner enlarged on bail he might be abscond and commit similar offences. Hence, prayed to dismiss the application.

5. Heard the arguments of both sides and perused the records.

6. That on the above said facts, the following points arise for my determination are:-

1) Whether the Petitioner/Accused No.5 has made out sufficient grounds for granting bail U/S 438 of Cr.P.C.?

2) What order?

7. My findings on the above points are as under:

Point No.1: In the Affirmative;

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

REASONS

8. **Point No.1** :- Upon going through the materials available on record, it is seen that, the present Petition is filed by the Petitioner under Section 438 of Cr.P.C., for grant of bail in Cr.No.13/2021 of Indiranagar Police Station. The offences alleged against the Petitioner are under Section 399 and 402 of IPC. As per the Prosecution story, the Petitioner and other accused have made preparation to commit the offence. The offence has not been completed. Apart from that already investigation is over and charge sheet is filed by the IO in the

present case. All the incriminating materials have been recovered by the Police. The Petitioner is absconding since from the date of incident. Considering the facts and circumstances of the present case, this Court is of the view that since the charge sheet is filed in the present case, no purpose will be served by keeping the Petitioner behind the bar. Under these circumstances, this Court is of the view that the Petitioner is entitled for bail as prayed for in the present case. The apprehension of the Prosecution can be met with by imposing certain conditions. Under the circumstances, I am of the opinion that, Petitioner/Accused in the above said petition may be enlarged on bail on imposing certain appropriate stringent conditions. This Court by its order dtd: 5.2.2021 has granted bail to Accused No.1 and 2 in Crl.Misc.No.25146/2021, as per order dtd: 17.8.2021 has granted bail to Accused No.3 and 4 in Crl.Misc.No.25883/2021. Therefore, the ground of parity is available to these Petitioners also.

9. Further, it is pertinent to note that their Lordships of Hon'ble Supreme Court in the decision reported in **2014(3) KCCR 1977 (SC) between Arnesh Kumar Vs., State of Bihar and another** was pleased to hold as under:

“Arrest brings humiliation, curtails freedom and cast scars forever. Law-makers know it so also the police. There is a battle between the lawmakers and the police and it seems that police has not learnt its lesson; the lesson implicit and embodied in the Cr.P.C. It has not come out of its colonial image despite six decades of independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasized time and again by Courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive.”

The said proposition of law is squarely applicable to the case on hand. Under the facts and circumstances of this case, and also considering the probable hardship that may be caused to the Petitioner/Accused No.5 and his family members in his absence, I am of the opinion that the Petitioner in the said petition has made out grounds for granting bail. However, the apprehension of the prosecution regarding the non-availability for trial, tampering witnesses etc., could be easily met with by imposing appropriate stringent conditions. Under the facts and circumstance of this case, I am of the opinion that Petitioner is entitle for bail on the ground of parity and it is deemed fit to grant the benefit of bail to him. Accordingly, Point No.1 is answered in Affirmative.

10. **Point No.2:** In the light of above discussions, I

proceed to pass the following:

ORDER

The petition filed U/S 438 of Cr.P.C., by the Petitioner/Accused is allowed.

In the event of his arrest, the Petitioner/Accused No.5 shall be enlarged on bail in Crime No.13/2021 (C.C.No.51963/2021) of Respondent Police Station, on execution of personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh) along with a surety for the likesum, subject to following conditions:

- 1) The Petitioner/Accused No.5 shall not tamper with the prosecution evidence or witnesses in any manner and shall co-operate with the investigation.
- 2) He shall not commit similar offences in future.
- 3) The Petitioner/Accused No.5 shall appear before the Court on all dates of hearing.

(Dictated to the Stenographer directly on computer, typed & computerized by her, corrected and signed by me and then pronounced in the open Court on this the **10th** day of **November 2021**).

[K.M. Rajashekhar],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.

**Order pronounced in the open Court
(vide separate order)**

O R D E R

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[K.M. Rajashekhar],
XXVIII. Addl. City Civil Judge,
Mayo hall, Bangalore.