

KABR200005372023



Presented on : 03-08-2023  
Registered on : 03-08-2023  
Decided on : 24-08-2023

**IN THE COURT OF THE III ADDL. DISTRICT & SESSIONS  
JUDGE, BENGALURU RURAL DISTRICT,  
SIT AT ANEKAL.**

**: PRESENT:**

**Sri. KARABARI RAVINDRA, B.A. LL.B. (SPL)  
III Addl. District & Sessions Judge,  
Bengaluru Rural District, sit at Anekal.**

**DATED THIS THE 24<sup>TH</sup> DAY OF AUGUST 2023**

**Crl. Misc. No.5335/2023**

BETWEEN

1. Sri. Lokesh .N., S/o  
Narayanachari, Aged about 47  
years,

: Petitioner No.1 /  
Accused No.1

2. Smt. Jyothi Lokesh W/o  
Lokesh, Aged about 49 years,

Both are R/at Villa No.33,  
Phase 2, Gollahalli Main Road,  
Electronic City Phase I,  
Bangalore-560 100.

: Petitioner No.2 /  
Accused No.2

(Represented by Sri. P.M.,  
Advocate)

Vs

State of Karnataka represented  
by Hebbagodi Police Station.

: Respondent.

(Represented by the Learned  
Public Prosecutor).

**: O R D E R S :**

The Petitioners have filed the bail application under section 438 of Cr.P.C. with an request to grant the Anticipatory Bail in Cr.No.382/2023 of Hebbagodi Police Station for the offences punishable under section 406, 420 read with 34 of Indian Penal Code.

2. The brief facts of the case is that, the complainant has filed the complaint with allegation that the present Petitioners have obtained the house No.501 wing No.19, 4<sup>th</sup> Floor on rent from one Phani Kumar. Further made allegation that on 15.10.2022 the Petitioners posed themselves as owner of the said house and obtained Rs.11,00,000/- from him and executed lease agreement.

The complainant has received the phone call from the original owner for payment of the rent. The complainant has acquired the knowledge that the Petitioners are not owner of the house. So the complainant has demanded the refund of the amount. As such the Petitioners have cheated to the complainant. On the basis of complaint registered the Cr.No.382/2023 in Hebbagodi Police Station for the offence punishable under section 406, 420 read with 34 of Indian Penal Code. There is apprehension of arrest and applied for bail on the following grounds.

3. They are innocent. They have not committed any offence. They have been falsely involved. They are ready to abide any conditions imposed by this Court and requested to allow the bail application.

4. The Learned Public Prosecutor has filed objection on the ground that, on the basis of complaint registered the Cr.No.382/2023 in Hebbagodi Police Station for the offence punishable under section 406, 420 read with 34

of Indian Penal Code. Further contended that as per averments made in the complaint. Further contended that bail application is not legally maintainable. Further relied upon **Crl. Appeal No.1575/2019 Dr. Lakshmana V/s State of Karnataka.** In case of released on bail there is chance of tampering prosecution witnesses, causing hindrance in the investigation and absconding the jurisdiction and requested for rejection.

6. Heard, perused the records the following Points arises for my consideration as under : -

1. Whether the Petitioners have made out the prima-facie case to grant the bail under section 438 of Cr.P.C. and petition is fit to be allowed.?

2. What order?

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

Point No.1:	In <b>Affirmative.</b>
Point No.2:	As per final Order

8. **Reasons for Point No.1** :- I have perused the averments made in the bail application, its objection and police papers. The Hebbagodi police station has registered the Cr.No.382/2023 for the offence punishable under section 406, 420 read with 34 of Indian Penal Code against the present petitioners. The learned counsel for petitioners has relied upon **Special Leave Petition.No.834-835-2023, Bimla Tiwari Vs. State of Bihar and others. 2023 Live Law (SC) 496, Ramesh Kumar Vs. State of NCT of Delhi**. By relying above said judgment the learned counsel for Petitioners tried to urged that entire investigation is based on documentary evidence. There is no need of custodial interrogation. I have perused the allegation made in the complaint. The entire investigation is based on documentary evidence and there is no need of custodial interrogation. The allegation made in the complaint can be decided at the time of trial. The pre detention of trial is bad in the law. This court relied upon **Criminal**

**Special Petitioner Crl. Appeal No.7281-7282/2017**  
**Smt. Sushila Aggarwal and others V/s State (NCT of Delhi) and others.** The Hon'ble Apex Court held that bail is a rule, jail is exception. The offence under section 406, 420 read with 34 of Indian Penal Code are non-bailable, but not punishable with death or life imprisonment and triable by judicial Magistrate first class. So I am of opinion that the petitioners have made out the prima facie case to grant the bail under section 438 of Cr.P.C. In view of above said reasons this court held **point no.1 in the Affirmative.**

9. **Reasons on Point No.2** :- In view of reasons on in point no.1 I proceed to pass the following Order : -

**: O R D E R :**

The bail application under section 438 of Cr.P.C filed by the petitioners is hereby allowed and in the event of their arrest in Cr.No.382/2023 of Hebbagodi

Police Station for the offence punishable under section 406, 420 read with 34 of Indian Penal Code they shall released on bail on execution of personal bond of Rs.5,00,000/- each with like sum of one surety with the following condition.

1. They shall not tamper prosecution witnesses.

2. They shall appear before the Investigation officer as and when required.

3. They shall mark the attendance before concerned police station on every fortnight on Saturday between 10-00 A.M. to 4-00 P.M.

4. The Petitioners and surety shall furnish his recent passport size photo and mobile number.

The above said conditions are

in enforcement for a period of 90  
days or till filing of charge sheet  
whichever is earlier.

(Dictated to the Stenographer, typed by her, corrected by me  
and then pronounced in the Open Court on **24<sup>th</sup> day of  
August 2023**).

(KARABARI RAVINDRA)  
III Addl. District & Sessions Judge,  
Bengaluru Rural District,  
Sit at Anekal.

**24.08.2023**

Orders Pronounced in the Open Court. The Operative Portion of the said Orders is as follows :

**: O R D E R :**

The bail application under section 438 of Cr.P.C filed by the petitioners is hereby allowed and in the event of their arrest in Cr.No.382/2023 of Hebbagodi Police Station for the offence punishable under section 406, 420 read with 34 of Indian Penal Code they shall released on bail on execution of personal bond of

Rs.5,00,000/- each with like sum of one surety with the following condition.

1. They shall not tamper prosecution witnesses.

2. They shall appear before the Investigation officer as and when required.

3. They shall mark the attendance before concerned police station on every fortnight on Saturday between 10-00 A.M. to 4-00 P.M.

4. The Petitioners and surety shall furnish his recent passport size photo and mobile number.

The above said conditions are in enforcement for a period of 90 days or till filing of charge

sheet whichever is earlier.

(Vide my separate detailed  
Orders dated 24.08.2023).

(Typed as per my dictation)

(KARABARI RAVINDRA)  
III Addl. District & Sessions Judge,  
Bengaluru Rural District,  
Sit at Anekal.