

KABR200005382023



Presented on : 03-08-2023

Registered on : 03-08-2023

Decided on : 19-08-2023

**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 19TH DAY OF AUGUST 2023

Crl. Misc. No.5336/2023

BETWEEN

1. Sri. Naveenraj Gowda S/o
Raje Gowda .K.S., Aged about
35 years, R/at No.572, Near
Sri. Nithyananda Swamy High
School, Jigani, Anekal Taluk,
Bangalore-560 105.

: Petitioner No.1 /
Accused No.5

2. Sri. Ajithkumar, S/o
Basavaraj, Aged about 25
years, R/at No.1068, 6th Block,
Kaveramma Temple,
Govindashettypalya, Electronic

City, Bangalore - 560 100.

: Petitioner No.2 /
Accused No.6

(Represented by Sri.
Venkataram., Advocate)

Vs

State of Karnataka represented
by Attibele 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.286/2023 of Attibele Police Station for the offences punishable under section 120B, 406, 420, 467, 468, 506 read with 34 of Indian Penal Code.

2. The brief facts of the bail application is that, the complainant has filed the complaint with allegation that the Vijaykumar, Ambarish and Nirmala informed him that they have got site from KHB. The site no.690/B5 is sanctioned in their favour and they have shown the

documents and they are agreed to sell the site and they have agreed to sell the said site and received sum of Rs.5,00,000/- through cheque of Karur Vysya Bank, Attibele Branch. They have agreed to executed the sale deed and they have executed the agreement of sale. Thereafter they have demanded excess amount as there is need of money for getting the documents from K.H.B. So accordingly they have received sum of Rs.3,00,000/-. Further they are need of amount of Rs.4,00,000/- for treatment of daughter of Nirmala and received the same. Thereafter the above said persons with criminal conspiracy executed the agreement of sale in favour of present petitioners in order to extract the money. They have created documents on 15.03.2023 in favour of present petitioners. So the complainant requested to executed the sale deed and they have acquired the knowledge that they have executed the agreement of sale in favour of present petitioners. So as such cheated to the complainant. On the basis of complainant

registered the Cr.No.286/2023 of Attibele Police Station for the offences punishable under section 120B, 406, 420, 467, 468, 506 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. The petitioners are the bonafide purchaser of the property no.690/B5 which was allotted by the KHB in favour of accused no.1 to 4. There is no nexus between the present petitioners and complainant. They have been falsely involved. So the matter involves civil in nature. 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.286/2023 in Attibele Police Station for the offences punishable under section 120B, 406, 420, 467, 468, 506

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. In case of released on bail there is chance of tampering prosecution witnesses, causing hindrance in the investigation and requested for rejection.

5. 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?

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

Point No.1:	In Affirmative.
Point No.2:	As per final Order

7. **Reasons for Point No.1** :- I have perused the averments made in the bail application, its objections and

police papers. The allegation made in the complaint is that the original owners have received the amount from the complainant and executed the agreement. Thereafter they have conspired with the present petitioners and got agreement of sale. So they have created the documents in order to extract more money from the complainant. So the allegation made in the complaint is in civil nature. The entire allegation made in the complaint is based on documentary evidence. The offence under Section 406, 420, 468 of Indian Penal Code are non-bailable but not punishable with death or life imprisonment triable by judicial magistrate first class. 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. In view of principle laid down above said judgment 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.**

8. **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.286/2023 of Attibele Police Station for the offence punishable under section 120B, 406, 420, 467, 468, 506 read with 34 of Indian Penal Code they shall released on bail on execution of personal bond of Rs.50,000/- 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 **19th day of August 2023**).

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

19.08.2023

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.286/2023 of Attibele Police Station for the offence punishable under section 120B, 406, 420, 467, 468, 506 read with 34 of Indian Penal Code they shall released on bail on execution of personal bond of Rs.50,000/- 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 19.08.2023).

(Typed as per my dictation)

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