KABC010206942023

IN THE COURT OF THE LII ADDL. CITY CIVIL & SESSIONS JUDGE, BANGALORE (CCH-53)

Dated this the 9th day of August, 2023

PRESENT

Sri.B.G.Pramoda, B.A.L., LL.B.,
LII Addl. City Civil & Sessions Judge,
Bangalore.

Crl.Misc.No.7450/2023

Petitioners

1. Tejas K.S. @ Teju
   S/o K.P.Satish Kumar,
   Aged about 22 years,
   R/at No.08, Kannalli,
   Near 35th Bus Depot,
   Panchamukhi Layout, Seegehalli
   Gate, Bengaluru – 560091.

2. Nitheen S.V.
   S/o Beerabhadraiah,
   Aged about 23 years,
   R/at No.02, 13th Main,
   2nd Cross, Nagendra Block,
   Bengaluru – 560050.

3. Anush K.
   S/o V.C.Kumarswamy,
   Agedabout 21 years,
   R/at No.69, 6th Cross,
   Pavamana Nagar, J.P.Nagar,
   8th Phase, J.P.Nagar,
   Bengaluru.

(Accused No.1, 3 and 4 in judicial custody)

(By Sri.Anil Kumar K.R., Advocate)

-V/S-

Respondent : State of Karnataka by
Girinagar police station,
Bangalore.

(Represented by learned Public Prosecutor)

ORDER

This petition is filed by the petitioners/Accused No.1, 3 and 4 u/s.439 of Cr.P.C., praying to enlarge them on bail in Crime No.304/2023 of Girinagar police station for the offences punishable u/Sec.308, 427, 504, 506 r/w Sec.34 of IPC pending on the file of learned 32nd ACMM Court, Bengaluru.

2. It is stated in the petition that the respondent police have registered a case in Cr.No.304/2023 against the unknown persons alleging the offences punishable u/Sec.308, 427, 504, 506 r/w Sec.34 of IPC. The respondent police during the course of investigation of the case have arrested the petitioners and produced them before the learned Magistrate on 28.07.2023. The petitioners were remanded to judicial custody by Learned Magistrate. The petitioners are shown as Accused No.1, 3 and 4 in the aforesaid crime number. It is further stated in the petition that the petitioners are innocents and they have not committed the alleged offences. The respondent police have falsely implicated

the petitioners in the aforesaid crime number. The petitioners are permanent residents of address mentioned in the cause title. Having deep roots in the society and have no bad antecedents. The petitioners are ready to abide by any terms and conditions imposed by this court for their enlargement on bail and they are ready to furnish suitable surety for their appearance before the court. Hence, the petitioners have prayed to allow their petition.

3. The learned Public Prosecutor has filed objections to the bail application filed by the petitioners along with I.O. report by opposing the grant of bail to the petitioners by contending that the offences alleged to have been committed by the petitioners are grave in nature and against to the society. It is further stated in the objection that the petitioners have caused grievous injuries to the informant which are dangers to his life and they have also gave life threat to him. It is further stated in the objection that the case is still at the investigation stage. If the petitioners are enlarged on bail, they may commit the offences of similar nature in future. The petitioners will abscond and they may not appear before Investigating Officer and before the court. It is further stated in the objection that if the petitioners are enlarged on bail they may try to destroy the evidence and they may threaten the prosecution witnesses. Hence, the Learned Public Prosecutor has prayed to reject the petition filed by the petitioners.

4. Heard the arguments of Learned Public Prosecutor and Learned counsel for the petitioners. Perused the petition, objection and other materials on record.

5. Having done so, the following points will arise for my consideration:

(1) Whether the bail petition filed by the petitioners u/s.439 of Cr.P.C., is deserves to be allowed?

(2) What order?

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

(1) Point No.1 .. In the **Affirmative**

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

R E A S O N S

7. **Point No.1**:- The respondent police have registered case in Crime No.304/2023 of Girinagar police station against the unknown persons by alleging the commission of offences punishable u/Sec.308, 427, 504, 506 r/w Sec.34 of IPC on the basis of the information given by Chandrashekar N.S. The respondent police during the course of investigation of the case have arrested the petitioners on 28.07.2023 and produced them before the learned Magistrate. The learned magistrate remanded the petitioners to judicial custody. The certified copy of FIR, order sheet, complaint and remand application in Cr.No.304/23 of Girinagar police station is produced. The name of the petitioners is not mentioned either in the complaint or in the FIR. Their name

is mentioned in the remand application. The petitioners are shown as Accused No.1, 3 and 4 in the remand application.

8. Now, the petitioners are in judicial custody and as such, they have filed the present petition praying to enlarge them on bail by contending that they are innocents and they have not committed any offences as alleged against them and they have been falsely implicated by the respondent police in the aforesaid crime number.

9. It is alleged in the FIR that on 28.07.2023, at about 12.30 p.m., infront of house of the informant, there was loud sound and when the informant has opened the door and came out, the petitioners have abused him with filthy language and threatened him to take his life and assaulted him with stone. When the informant locked the door, the petitioners have pelted stones on the door and windows of the house and caused damage to the windows and door.

10. The offences alleged against the petitioners are not exclusively punishable with death or imprisonment for life. The petitioners are in JC since 28.07.2023. In the I.O report as well as in the remand application, it is stated that the vehicles used by the petitioners for committing offence were seized by conducting mahazar. Further spot mahazar was also conducted, the stones alleged to have been used for commission of the offence were also seized by conducting mahazar. Voluntary statement of the

petitioners was also recorded. Substantial investigation of the case is already completed. There is no danger to the life of the informant. Whether the petitioners and another accused have committed the alleged offences on the informant or not has to be adjudicated only after full-fledged trial.

11. The Hon'ble Supreme Court of India in **Balachandh @ Baliya (AIR 1977 SC 2447)** and in many cases has held that has laid down the legal doctrine that “bail is a rule and jail is an exception”. This legal doctrine is laid down for safe guarding a fundamental right under article 21 of Constitution of India, granting the right to life and liberty. There are no sufficient exceptional reasons to keep the petitioners in judicial custody by rejecting his bail application.

12. Further, the petitioners are ready to abide by any terms and conditions imposed by the court for their enlargement on bail. They are also ready to furnish surety to the satisfaction of the court for their appearance before the Investigating Officer. They are also ready to co-operate with the investigation of the case. The petitioners are the permanent residents of the Bengaluru and they are residing within the jurisdiction of this court and within the jurisdiction of learned magistrate. As such, there is no chances of petitioners absconding or fleeing from justice. The presence of the petitioners during the course of investigation of the case can be secured by imposing suitable conditions. The apprehension of Learned Public Prosecutor regarding absconding

of the petitioners and regarding petitioner threatening the prosecution witnesses and destroying the evidence can be make good by imposing suitable terms and conditions. Under these facts and circumstances, I am of the opinion that the bail application filed by the petitioners can be allowed and petitioners can be enlarged on bail by imposing suitable terms and conditions. **Accordingly, I answer point No.1 in the Affirmative.**

13. **Point No.2**:- In view of my findings on point No.1, I proceed to pass the following:

O R D E R

The petition filed by the petitioners/Accused No.1, 3 and 4 u/s.439 of Cr.P.C., is hereby allowed.

The petitioners/Accused No.1, 3 and 4 are enlarged on bail in Crime No.304/2023 of Girinagar police station for the offences punishable u/Sec.308, 427, 504, 506 r/w Sec.34 of IPC, pending on the file of learned 32nd ACMM Court, Bangalore, on petitioner furnishing personal bond for Rs.1,00,000/- each and one surety for like sum each to the satisfaction of the Learned Magistrate with the following further conditions:

CONDITIONS

(1) The petitioners shall appear before the Investigating Officer as and when called for during the course of investigation of the case and they shall co-operate with the investigation of the case.

(2) The petitioners shall appear before the court regularly on all hearing dates during the trial of the case.

(3) The petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or any police officer or any hamper with the evidence.

(4) The petitioners shall not commit offences of similar in nature or any other offences in future.

(5) The petitioners shall furnish their correct address proof before the trial court.

(6) The petitioners shall not leave India without previous permission of the court.

(7) Violation of any of the aforesaid conditions would entitle for cancellation of bail of the petitioners.

(Dictated to the Stenographer, directly on computer, corrected and then pronounced by me in the open court on this the 9th day of August, 2023).

PRAMODA B G

Digitally signed by PRAMODA B G
Date: 2023.08.11 10:20:15 +0530

(B.G.Pramoda)
LII Addl. City Civil & Sessions Judge,
Bangalore.