

KABC0A0029892023



**IN THE COURT OF XIII ADDL. CITY CIVIL & SESSIONS JUDGE,
MAYOHALL UNIT, BENGALURU (CCH-22)**

**Present: Sri S. Sudindranath, LL.M., M.B.L.,
XIII ADDL. CITY CIVIL & SESSIONS JUDGE
BENGALURU.**

Criminal Miscellaneous No.25653/2023

Dated this 14th day of August 2023

Petitioner:- M. Ashfaq Ahmed @ Ashfaq,
S/o M. Khalid,
Aged about 57 years,
No.17, 15th Cross,
Near Airtel Office,
Marappa Garden, J.C Nagar,
Bengaluru-06.

(Rep. By – Sri KAMALUDDIN AHMAD, Advocate)

V/s

Respondent : State by – Pulikeshinagar Police Station,
Bengaluru.

[By Public Prosecutor, Bengaluru]

:: ORDERS ::

Apprehending arrest by respondent police in CR 163
of 2023 registered for offences under Section 120B, 415 to
420 of IPC, the petitioner herein who is arraigned as

KABC0A0029892023



accused in the said crime number is before this court seeking anticipatory bail.

2. The Learned PP has filed detailed objections to the present petition.

3. At the time of hearing, Learned Counsel entered appearance for the de facto complainant / first informant and sought opportunity of being heard in the matter and considering the law laid down by the Hon'ble Apex Court in the case of ***Jagjeet Singh v. Ashish Mishra, (2022) 9 SCC 321***, holding that the victim of offence has right of hearing in bail petition, this court allowed the application filed by the de facto complainant to address arguments in the present petition.

KABC0A0029892023



4. Thereafter, I have heard the arguments of both sides and perused the records of the case.

5. The only point that arises for my consideration is :-

Whether the petitioner herein is entitled to grant of anticipatory bail?

6. My answer to the above point is in the **affirmative** for the following :-

:: REASONS ::

7. The facts in brief are that, the present FIR is registered for aforestated offences against the petitioner on the basis of private complaint in PCR 54113 of 2023 presented before the Learned Magistrate by one Syed Ismail Abrar.

KABC0A0029892023



8. The allegations in the private complaint are that the complainant's grandfather, namely Muhammad Sharif, jointly purchased property bearing old number 23, new number 33, Coles Road, C & M Station, Bangalore, under sale deed dated 18-10-2006 along with one DG Ganapathy and thereby complainant's grandfather is entitled to 50% undivided share in the said property and he has gifted the same to the complainant and thereby complainant has become entitled to 50% in the said property. When things stood thus, complainant came to know that accused has initiated certain legal proceedings on the basis of forged sale agreement dated 9-4-2008 purported to be executed by complainant's grand-father in favour of the accused. On enquiry, the complainant came to know that his grandfather has never executed any such sale agreement in favour of the accused and it is a fake and created

KABC0A0029892023



document. To confirm the same, the complainant has sent copy of the said sale agreement along with admitted signature of his grandfather to a handwriting expert who has submitted report stating that the said sale agreement is fake and forgery. On the basis of these allegations, contending that by the act of the accused in creating a forged sale agreement, the accused has committed the offences of cheating, forgery and criminal conspiracy, the private complaint under section 200 of CRPC was presented before the Learned magistrate and the Learned magistrate has referred the same for investigation to respondent police under section 156 [3] of CRPC and on the basis of the said order of the Learned magistrate, the respondent police have registered aforesaid crime number and taken up investigation and at this stage

KABC0A0029892023



apprehending his arrest, the petitioner is before the court seeking anticipatory bail.

9. At the time of argument, the Learned Counsel for De facto complainant / first informant has produced the forensic report of the handwriting expert wherein it is opined that the signature on the purported sale agreement is fake and forgery and on this basis it was argued that the offence against the petitioner has been established and therefore it is not a fit case to grant anticipatory bail.

10. I am unable to accept the said argument of Learned Counsel for De facto complainant for the following reasons. Firstly, from the averments and allegations of the private complaint on the basis of which the FIR is registered, it is clear that custodial interrogation of the petitioner is not necessary because there is nothing to be

KABC0A0029892023



recovered because according to the complaint, the complainant already has a copy of the alleged forged sale agreement and has also obtained forensic report in respect of the same. Therefore the custodial interrogation and the custody of the petitioner is not required for the purpose of investigation and this is an offence which has to be made out on the basis of documents which are already available with the prosecution.

11. Further, the offences alleged are not punishable with either death or life imprisonment. The guilt or otherwise of the petitioner is subject matter of trial and law is settled that bail cannot be refused as a substitute for punishment. Suitable conditions can be imposed upon the petitioner to appear before the IO and cooperate with investigation. Considering all these factors, in my view it

KABC0A0029892023



is a fit case to grant anticipatory bail to petitioner subject to imposing stringent conditions and accordingly answering the point for consideration in the **affirmative**, I proceed to pass the following :-

:: ORDER ::

The petition under Section 438 of the Cr.P.C. is allowed.

The respondent Police is directed to enlarge the **Petitioner – M. Ashfaq Ahmed @ Ashfaq** on bail in the event of his arrest in CR 163 of 2023 registered for offences under Section 120B, 415 to 420 of IPC, on executing personal bond of **Rs. 50,000/-** [Rupees Fifty Thousands only] and furnishing **1 surety** for likesum for his appearance and also furnishing **address proof of the petitioner** and his surety, subject to the following conditions:

KABC0A0029892023



1. The Petitioner is directed to co-operate with the investigation and for this purpose, he shall appear before the Investigating Officer within **15 days** from the date of this order and thereafter the petitioner shall mark his **attendance in respondent police Station** once in 30 days for period of 3 months.
2. The Petitioner shall appear before the Respondent Police as and when required and co-operate with the investigation.
3. The petitioner shall appear before the Court on all dates of hearing during the trial except for unavoidable reasons.
4. The petitioner shall not indulge in similar or any offence.

KABC0A0029892023



5. The petitioner shall not in any manner tamper with the evidence nor hold out any threat or inducement to the witnesses.

Breach of any of the conditions shall entail cancellation of bail.

[Dictated using Dragon Professional Speech Recognition Software Version 15.3, transcript revised, corrected, signed and then pronounced by me in open court on this the **14th day of August, 2023**]

[Sri. S. Sudindranath]
XIII ACC & S.J, Bengaluru.