

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF MAY 2020

BEFORE

THE HON'BLE MR.JUSTICE S. SUNIL DUTT YADAV

WRIT PETITION No.6723/2020 (GM-RES)

Between:

Sri Iiyaz Khan,
S/o Ibrahim Khan,
Aged about 46 years,
Residing at Kalakughatta Village,
Thyamagondlu,
Nelamangala Taluk,
Bengaluru Rural District.

... Petitioner

(By Sri Sunil S. Rao, Advocate)

And:

The State by
Thyamagondlu Police,
Represented by
Station House Officer.

... Respondent

(By Sri M. Divakar Maddur, HCGP)

This Writ Petition is filed under Articles 226 & 227 of Constitution of India read with Sections 439 & 482 of Code of Criminal Procedure, praying to issue a writ/order/direction to enlarge the petitioner on bail for the offences punishable under Sections 341, 353, 504 r/w Section 34 of IPC in the above captioned Crime No.26/2020.

This Writ Petition coming on for orders this day, the Court made the following:

ORDER

The petitioner has been arrayed as an accused in the FIR bearing No.0026/2020 dated 04.04.2020 and FIR has been lodged with respect to the alleged incident stated to have taken place on 03.04.2020.

2. It is stated that the petitioner had filed a petition under Section 437 of Cr.P.C seeking enlargement of bail before the Court of Senior Civil Judge and JMFC, Nelamangala. It is further submitted that necessary report was made to the Principal District and Sessions Court, Bengaluru Rural District, Bengaluru on 07.04.2020 as well as on 13.04.2020 to ensure that the petition be taken up on priority in light of urgency explained and also as it involved liberty of the petitioner and as he had made out a case for being enlarged on bail in the petition filed under Section 437 of Cr.P.C.

3. It is further submitted that on both occasions, i.e. 07.04.2020 and 13.04.2020, learned District Judge has refused to order that the bail petition be taken up for

consideration stating that it is not a case of extreme urgency.

4. Learned counsel for the petitioner submits that petitioner has been in custody for about a month and in fact, the offence under Section 341 of I.P.C. is punishable for imprisonment for one month.

5. It is further submitted that there could not be deferment of consideration of bail petition for any reason and appropriate arrangements ought to be made to take up the bail petition.

6. Learned counsel for the petitioner further submits that petitioner be enlarged on bail by treating the petition as the one filed under Section 439 of Cr.P.C.

7. Learned HCGP appearing for the respondent – State however opposes grant of bail.

8. Having heard both the learned counsel appearing for the parties, it is to be noticed that once the

bail petition has been filed, as petition involves the question of life in all its expansive connotations and liberty of the petitioner, it is appropriate to take up the petition and consider it in accordance with law in an expeditious manner.

9. Without commenting as regards to the merits of the matter, it cannot be stated that though the petitioner seeks for enlarging him on bail, petitioner is seeking to move a matter which does not involve any extreme urgency and hence, the consideration of application for bail could be deferred. Such a pedantic approach is not acceptable when considering the application filed seeking to be enlarged on bail. Considering that the rights and liberty of citizens are involved as they contend that incarceration is illegal, bail petitions must be taken up for consideration and disposed of without undue delay. The consideration of application to be enlarged on bail in accordance with law is a right

that can be encapsulated in the Right to Life under Article 21 of the Constitution of India.

10. Accordingly, the concerned Court to take up the petition seeking enlargement of bail filed by the petitioner and to dispose of the said petition within a period of seven days from the date of release of the order. The Prosecution to co-operate with the proceedings before the concerned Court to ensure that the bail petition is disposed off.

Accordingly, the petition is ***disposed off***.

Copy of this order to be marked to the Principal District and Sessions Court, Bengaluru Rural District, Bengaluru.

**Sd/-
JUDGE**

VGR