

**IN THE COURT OF THE LXIV ADDL.CITY CIVIL &  
SESSIONS JUDGE (CCH-65) AT BENGALURU)**

**Dated this 20<sup>th</sup> day of May 2021**

**-: P R E S E N T :-**

**Sri. RAJESHWARA,**  
B.A., L.L.M.,  
LXIV ADDL.CITY CIVIL & SESSIONS JUDGE,  
CCH-65, BENGALURU CITY.

**Crl.Misc.No.4383/2021**

**PETITIONER:** **Dr.C.S.Dwarakanath,**  
S/o. Chokka Subbaiah,  
Aged about 66 years,  
Chokka Mane, No.1203,  
A Block, 19<sup>th</sup> Main,  
Ganesha Temple,  
Sahakara Nagara,  
Sahakara Nagara post,  
Bengaluru North,  
Bengaluru-560 092.

By Sri. R.Jagannath, Advocate)

/Vs/

**RESPONDENT** : State of Karnataka  
**By Yelahanka New Town  
Police Station,** Bengaluru.  
(Rep. By Learned Public Prosecutor)

**ORDER ON BAIL APPLICATION FILED U/S.438 OF CR.P.C.**

Petitioner has filed this petition U/s.438 of Cr.P.C.,  
seeking the relief of anticipatory bail in Cr.No.82/2021 of  
Yelahanka New Town police station, Bengaluru for the

offences punishable U/s.153A, 504, 506, 153B, 505(2) of I.P.C., pending on the file of XXXIII Addl.Chief Metropolitan Magistrate, Bengaluru.

2. In the anticipatory bail petition, petitioner has submitted that, he is innocent of the alleged offences. He has got valid and tenable defence in his favour. He has been falsely implicated in this case. Allegations made against him is totally false. He has not committed alleged offences. There is no reasonable ground to believe that, he has committed alleged offences. There are no materials to connect him to the alleged offences. Alleged offences are not punishable with death or imprisonment for life. He is permanent resident of the address mentioned in the cause title of the petition. He hails from respectable family and is having deep roots in the society. He is ready to abide by terms and conditions and undertake to furnish sureties for his release on bail. For the said reasons, petitioner has prayed to release him on anticipatory bail.

3. Learned Public Prosecutor appearing for the State has filed statement of objections along with report of the Investigation Officer. In the statement of objections, it is submitted that, petitioner is required for investigation. In the event of granting anticipatory bail, there is every chance of absconding, tampering and allure prosecution witnesses, repetition of crime of similar nature. Hence Learned Public Prosecutor appearing for the State has prayed to dismiss the anticipatory bail petition filed by the petitioner.

4. Heard arguments.

5. Now, following are points arising for determination:

1. Whether petitioner/accused is entitled to be released on anticipatory bail U/s.438 of Cr.P.C.,?

2. What Order?

6. It is answered for the aforesaid points as under:-

Point No.1: In the Affirmative.

Point No.2: As per final order below, for the following:-

**REASONS**

**7. POINT NO. 1:-** Along with petition, petitioner has produced copies of FIR No.82/2021 dated 12.5.2021 registered in the respondent police, adhar card of the petitioner.

8. In the F.I.R. this petitioner is arrayed as accused No.2. Allegations made against the accused in the First Information Statement (FIS) as well as in the F.I.R. is that on 9.5.2021, accused persons hatched conspiracy to publish defamatory articles against Prime Minister of India, Chief Minister of Karnataka State. In this regard, accused persons have entered into an Agreement. In furtherance of the said criminal conspiracy, accused persons have published defamatory article in 'Prajavani' kannada daily newspaper on 9.5.2021 in which false, fictitious article was published. In the said article, false allegations against Prime Minister of India, Chief Minister of Karnataka and other ministers was made in order to promote enmity between different

groups, bodies, prejudicial to harm communal peace and harmony in the society.

9. Advocate for petitioner has submitted that petitioner is an advocate. Without his consent, "Karnataka Janashakthi" have published alleged advertisement. When the petitioner came to know about publication of the said article, immediately he contacted Prajavani newspaper, directed to publish explanation in this regard. Accordingly, on 12.5.2021, an explanation is published in the same newspaper that without his consent, on 9<sup>th</sup> May, defamatory, objectionable publication was published in Prajavani kannada daily newspaper. The said explanation was given prior to registration of F.I.R. in this case. Offences alleged against the petitioner and other accused is not punishable either with death or imprisonment for life. All the offences are triable in the court of Magistrate. Petitioner has no connection with 'Karnataka Janashakthi'. Ingredients of offences punishable U/s.153A and 153B is

not attracted. Petitioner is ready to abide by terms and conditions imposed by this court and offered to furnish surety for his release on bail.

10. Per contra, Learned Public Prosecutor appearing for the State has submitted that, in the event of granting bail to the petitioner, there is every chance of absconding, tampering and allure prosecution witnesses, repetition of the crime.

11. Considering facts and circumstances of the case, following factors to be taken into consideration to determine whether anticipatory bail petition filed by the petitioners shall be allowed or not.

12. Firstly nature and gravity of the accusation. No doubt that allegations made against petitioner is a serious allegation. However, advocate for the petitioner has submitted that, allegations made against petitioner/accused is false. Investigation is in progress. To substantiate the accusation, investigation agency has to collect such materials to establish involvement of this

petitioner/accused. Allegations made by the informant against petitioner has to be investigated to know whether allegations satisfy ingredients required for offences punishable U/s.153A, 506, 504, 153B, 505(2) of I.P.C.

13. Second aspect to be taken into consideration is antecedents of the petitioner/accused including the fact as to whether he has previously undergone imprisonment on conviction by court in respect of any cognizable offence. There is no such material is forthcoming in the statement of objections filed by the prosecution to show that this petitioner is previously convicted in respect of any cognizable offence.

14. Thirdly aspect to be taken into consideration is that, whether accusation has been made with the object of injuring or humiliating applicant by having him so arrested. Said fact has to be investigated.

15. Fourth aspect to be taken into consideration is possibility of the petitioner's flee from justice.

Petitioner/accused submitted that, he has got deep roots in the society. In the petition, petitioner undertakes to abide by terms and conditions and offered to furnish surety for his release on bail. Hence, possibility of applicant flee from justice is remote.

16. Press, particularly daily newspapers have immense circulation among public. 'Prajavani' is also one of such Kannada daily newspaper, having vast circulation. It is the responsibility of the editor and concerned officers of the newspaper to ascertain whether publication of any news would disturb peace and harmony of the communities of the society. Further it is the duty of the editor and publisher to verify the truth of the news, before publication of the same in their newspaper. Any dereliction, negligence on the part of the editor, publisher of the newspaper would cause severe damage to the safety of the public, harmony among communities in the society. Public peace and tranquility is the prime issue to be maintained in the civilized society. Court can take judicial notice that entire nation is facing

medical emergency situation due to spread of Covid-19 infection in an alarming manner. It is also true that despite all attempts, it is not possible to the government to supply required medicine, oxygen and other life saving materials within time. In such situation, publishing articles like the present one, could provoke relatives, supporters of the deceased who died due to Covid-19 infection. Considering the peculiar circumstances of the case, this court is of the opinion that imposing stringent conditions upon the petitioner to avoid repetition of incidents alleged in this case, is utmost necessary. Further, rest of the apprehensions made out by the prosecution may be taken care by imposing other conditions. Offences alleged are neither punishable with death nor imprisonment for life. Hence, point No.1 is answered in the affirmative.

17. **POINT NO.2:** In view of the aforesaid discussion, the following order is made:

**ORDER**

Anticipatory bail petition filed by petitioner/accused U/s.438 of Cr.P.C., is allowed.

Respondent police is directed to release the petitioner/accused on bail in the event of his arrest in Cr.No.82/2021 of Yelahanka New Town police station, Bengaluru for the offences punishable U/s.153A, 504, 506, 153B, 505(2) of I.P.C., pending on the file of XXXIII Addl.Chief Metropolitan Magistrate, Bengaluru by taking personal bond for Rs.1,00,000/- (one lakh) with two sureties for the likesum under following conditions;

1. Petitioner/accused shall appear before Investigating Officer and co-operate with investigation within 30 days from the date of this order and make himself available for investigation as and when called by the Investigating Officer.
2. Petitioner shall not participate directly or indirectly in any manner in publication of any type of articles in social media

including newspaper which could cause provocation for breach of peace and tranquility of the society.

3. He shall appear before Jurisdictional Magistrate, Bengaluru and execute personal bond for Rs.1,00,000/-(one lakh) with two sureties for the likesum within one month from the date of this order.
4. He shall furnish documents regarding his address proof and the address proof of his sureties before the Jurisdictional Magistrate at the time of furnishing sureties.
5. After lifting of lock down, he shall mark his attendance at respondent police station on 1<sup>st</sup> and 3<sup>rd</sup> Sunday of every month in between 10.00 a.m. and 2.00 p.m., till conclusion of investigation. Thereafter he shall mark his attendance at respondent police station on 1<sup>st</sup> of every month in between 10.00 a.m and 2.00 p.m, till conclusion of trial.
6. He shall not directly and indirectly make any inducement threat or promise to any person acquainted with the facts of the

case so as to dissuade him from disclosing the such facts to the Investigation Officer and to the trial court.

7. He shall not commit any offence similar to the offence of which he is accused.
8. Violation of any one of the aforesaid conditions, bail granted herein shall automatically stands cancelled.

(Dictated to the Judgment writer, script typed by her and corrected, signed and then pronounced by me in the open court on this 20<sup>th</sup> day of May, 2021.)

**(RAJESHWARA)**  
**LXIV ADDL.CITY CIVIL &**  
**SESSIONS JUDGE, CCH-65,**  
**BENGALURU CITY.**

20.5.2021

Order pronounced in the open Court,  
vide separate Order:-

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(RAJESHWARA)  
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