

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF JANUARY, 2022

BEFORE

THE HON'BLE MR. JUSTICE H.P. SANDESH

CRIMINAL PETITION NO.485/2022

BETWEEN:

1. HONNAPPA DURGAPPA MALAGI @ RAVI,
S/O DURGAPPA MALAGI,
AGED ABOUT 26 YEARS,
R/AT NO.256, 9TH CROSS,
NARASIPURA LAYOUT,
VIDYARANYA PURA,
BENGALURU-560097.

NATIVE OF HARIJANA KERI,
KAKOLU, RANEBENNUR TALUK,
HAVERI DISTRICT-581115.

2. RAMESH,
S/O TEJARAM,
AGED ABOUT 25 YEARS,
R/AT NO.III FLOOR,
BEHIND RAMA MANDIRA,
4TH MAIN, CHICKPET,
BENGALURU-560053.

NATIVE OF ATTUPADU VILLAGE,
SOJAR TALUK, PALI DISTRICT,
RAJASTHAN-306401.

ALSO AT MUTHON KA BASS,
ALPARA ALBARA PALI,
RAJASTHAN-306401.

...PETITIONERS

(BY SRI NARAYANASWAMY K.N., ADVOCATE)

AND:

THE STATE OF KARNATAKA,
MAGADI ROAD POLICE STATION,
REP BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
HIGH COURT BUILDINGS,
BENGALURU-560001.

...RESPONDENT

(BY SRI VINAYAKA V.S., HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C PRAYING TO ENLARGE THE PETITIONERS ON BAIL IN CR.NO.207/2021 OF MAGADI ROAD P.S., BANGALORE FOR THE OFFENCE PUNISHABLE UNDER SECTION 379 OF IPC, ON THE FILE OF THE III ACMM, BANGALORE.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THROUGH VIDEO CONFERENCE THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed under Section 439 of Cr.P.C. seeking regular bail of the petitioners in Crime No.207/2021 of Magadi Road Police Station, Bengaluru, for the offence punishable under Section 379 of IPC.

2. Heard the learned counsel for the petitioners and the learned High Court Government Pleader appearing for the respondent-State.

3. The factual matrix of the case is that these two petitioners along with juvenile offenders were indulged in

committing the offence of theft of vehicles and when the juvenile offenders were apprehended, they revealed the name of these petitioners and hence case has been registered against them and in total 27 cases are booked against the petitioners as well as the juvenile offenders in different crimes in 2021 only.

4. The learned counsel for the petitioners would submit that only based on the juvenile offenders' statement, these petitioners have been arraigned as accused and no recovery is made at the instance of the petitioners. The juvenile offenders gave the information about where they have kept the vehicles and the alleged recovery is made at the instance of the petitioners and these petitioners have not indulged in such offence and hence they may be enlarged on bail.

5. Per contra, the learned High Court Government Pleader appearing for the respondent-State would submit that these petitioners have committed 27 crimes in total and all the offences are punishable under Section 379 of IPC and recoveries are also made at the instance of the petitioners. In total three recoveries are made; at the first instance, one vehicle was recovered; at the second instance, three vehicles are recovered;

at the third instance, three vehicles are recovered and at the fourth instance, three vehicles are recovered at the instance of these petitioners and there is a prima facie material against these petitioners indulging in committing the offence under Section 379 of IPC and the investigation is not yet completed and their presence is required for further investigation.

6. Having heard the respective learned counsel, petitioner No.1 is a Police Constable and he indulged with accused No.2 and other juvenile offenders in committing such offences and list of cases which have been stated in the remand application is clear that total 27 cases are registered for the similar offence from the beginning of 2021 till date of arrest of these petitioners. When ten vehicles are recovered at the instance of this petitioner and when the matter is under investigation, it is not a fit case to exercise the powers under Section 439 of Cr.P.C., that too in favour of a Police Constable, who has to protect the property of the people and he himself indulged in committing the offence of theft of motorcycle along with accused No.2 and juvenile offenders and hence it is not a case for exercising the discretion.

7. In view of the discussions made above, I pass the following:

ORDER

The petition is rejected. However, liberty is given to the petitioners to approach the Court after filing of the charge-sheet.

**Sd/-
JUDGE**

MD