

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29<sup>TH</sup> DAY OF DECEMBER, 2016

BEFORE

THE HON'BLE MR.JUSTICE K.SOMASHEKAR

CRIMINAL PETITION NO.8867/2016

BETWEEN:

1. VIJAY  
S/O SHANKAR,  
AGED ABOUT 26 YEARS,
2. VINAY @ CHOCKLET  
S/O SHANKAR,  
AGED ABOUT 28 YEARS,

BOTH ARE RESIDING AT NO. 112/C  
3RD CROSS, GANGOTHRI LAYOUT,  
T.K. BADAVANE, THONACHIKOPPALU,  
MYSORE CITY – 421 104.

... PETITIONERS

(BY SRI:LAKSHMIKANTH K, ADV)

AND:

STATE OF KARNATAKA BY  
REP BY MANDYA EAST POLICE STATION,  
BY ITS STATE PUBLIC PROSECUTOR,  
HIGH COURT BUILDING,  
BANGALORE – 01.

... RESPONDENT

(BY SRI: K NAGESHWARAPPA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 CR.P.C PRAYING TO ENLARGE THE PETITIONERS ON BAIL IN CR.NO. 184/2016 OF MANDYA EAST P.S., MANDYA FOR THE OFFENCE P/U/S 420 OF IPC.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THIS DAY, THE COURT PASSED THE FOLLOWING:

### O R D E R

This petition is filed by petitioners-accused under Section 439 of Cr.P.C. in Crime No. 184/2016 of Mandya East Police Station, Mandya for alleged offence punishable under Section 420 of IPC. Therefore counsel for the petitioners is seeking for regular bail as they are arrayed as accused in the alleged crime. Hence, this petition among the grounds urged therein.

2. Heard learned counsel for petitioners and learned HCGP for respondent.

3. Learned counsel for petitioners during the course of his arguments has contended that accused are innocent persons and they have not at all committed alleged offence, despite of it they have been implicated in this case on the basis of complaint filed by the complainant. It is further contended that from a reading of the complaint averments,

it is clear that there is no ingredients to constitute the alleged offence against the petitioners. The petitioners-accused are the only earning member in the family eking out the livelihood of dependants. It is further contended by the counsel for petitioners that petitioners are the permanent abode of Mysuru City. Accused hails from a respectable family and have deep roots in the society and more over accused are ready to abide any terms and conditions imposed by this Court. Therefore counsel is praying for considering the grounds urged in this petition and for granting bail.

4. Per contra, learned HCGP for respondent has taken the contention that the case in Crime No. 184/2016 for the alleged offence has been registered. It has been recorded by the police that on the complaint filed by the complainant, the petitioners have been arrested and they are in judicial custody since from the date of arrest. He further submits that there are prima facie material against the petitioners and hence, they does not deserve for bail. Therefore learned HCGP prays for considering the statement of objections and case came to be registered in

Criminal Misc. No. 1174/2016 which is filed before the V Additional District and Sessions Judge, Mandya and reject the petition.

5. However, keeping in view of the contention taken by the learned counsel as well as the learned HCGP, it is relevant to state that subsequent to registration of case, it is under investigation and it requires for recording statement of witnesses and conducting mahazar and collecting material documents. Allegations made in the complaint, therefore at this stage does not require detailed discussion while considering bail petition filed by accused. Learned HCGP submits if accused are released on bail certainly they would come in the way of the prosecution case and destroy evidence. The apprehension of learned HCGP could be suitably met with, by imposing suitable conditions to safeguard the interest of the prosecution.

5. Therefore for the aforesaid reasons as well as in the circumstances, I am of the considered opinion that the accused deserves bail. Hence, I proceed to pass the following:

**ORDER**

The petition is hereby allowed subject to following conditions:

- (i) Petitioners-accused are released on bail on execution of a personal bond for a sum of Rs.50,000/- each with one surety for the likesum to the satisfaction of the *II Additional Civil Judge and JMFC, Mandya* \* in Cr.No.184/2016.
- (ii) Petitioners-accused shall co-operate with the investigating officer during the course of investigation.
- (iii) Petitioners-accused shall not tamper or hamper the case of the prosecution witnesses.
- (iv) Petitioners-accused shall mark their attendance once in fortnight as per English monthly calendar between 10.00 a.m. and 5.00 p.m. for a period of three months.

<p><i>*Correction carried out vide Court order dated 04.01.2018</i></p>
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- (v) Petitioners-accused shall not indulge in criminal activities.
- (vi) If the Petitioners-accused violates any of the above conditions, the bail granted shall automatically stands seized.

**Sd/-  
JUDGE**

\*bgn/-