



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF APRIL, 2023

BEFORE

THE HON'BLE MR JUSTICE T.G. SHIVASHANKARE GOWDA

CRIMINAL PETITION NO. 3356 OF 2023

BETWEEN:

SRI. PRADEEP,
S/O CHANNAPPA,
AGED ABOUT 34 YEAR,
R/AT NO. 79,
NEAR SAMUDAYA BHAVANA,
A.K. COLONY,
KYATAMARANAHALLI,
MYSURU-570019.

...PETITIONER

(BY SRI. RUDRAPPA P., ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY DEVARAJA POLICE STATILON,
MYSURU-570001.

REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU-560001.

...RESPONDENT

(BY SRI RAHUL RAI, HCGP)

THIS CRL.P IS FILED U/S.438 OF CR.P.C PRAYING TO
ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS
ARREST IN THE CR.NO.182/2011 REGISTERED DEVARAJA
POLICE STATION, MYSURU CITY DISTRICT FOR THE OFFENCE

Digitally signed by
MALA K N
Location: HIGH
COURT OF
KARNATAKA



P/U/S 397 OF IPC, PENDING ON THE FILE OF IV JMFC, MYSURU.

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

ORDER

The petitioner is before this Court under Section 438 of Cr.P.C. seeking pre-arrest bail in C.C.No.328/2020 on the file of the V JMFC, Mysuru for the offence under Section 397 of IPC.

2. Heard the arguments of Sri P.Rudrappa, learned counsel for the petitioner and learned HCGP for the respondent. Perused the records.

3. The petitioner is facing the trial for the charge under Section 397 of IPC. He was granted bailed at the earlier stage and thereafter, he remained absent before the trial Court and for this reason, non-bailable warrant was issued. Now he came before this Court for pre-arrest bail.

4. It is the contention of the learned counsel for the petitioner that originally charge sheet was filed before the IV JMFC, Mysuru in C.C.No.1860/2015 and the petitioner was appeared and offered bail. Later, the matter has been transferred to the V JMFC, Mysuru numbered in



C.C.No.328/2020. The transfer of the matter is not made known to the petitioner or he was issued any notice by the trial Court. For this reason, he was unable to appear before the Court. Since, the petitioner was already offered with bail, the learned VII Additional Sessions Judge, Mysure has rejected his petition under Section 438 of Cr.P.C as not maintainable. It is the apprehension of the learned counsel for the petitioner that if the petitioner appears before the committal Court, he will be subjected to custody.

5. Learned HCGP has vehemently opposed the bail application on the ground that the petition under Section 438 of Cr.P.C is not maintainable as the petitioner was already granted bail by the trial Court and as he violated the bail conditions and remained absent, non-bailable warrant was issued against him. The remedy available for the petitioner is to go before the trial Court and make an application to recall the warrant.

6. A perusal of the material on record clearly shows that the petitioner has offered bail in C.C.No.1860/2015 before the IV JMFC, Mysuru. Order sheet points out that the accused



was not notified regarding transfer of the case to the V JMFC, Mysuru and renumbering of the case as C.C.No.328/2020.

7. Since the petitioner is not aware of transfer of the case, his request to grant bail is reasonable. But in view of the fact the petition filed under Section 438 of Cr.P.C. before the VII Additional Sessions Judge, Mysure was rejected as not maintainable, he cannot be granted pre-arrest bail by this Court. The only remedy available to the petitioner to appear and make a request to the committal Court to consider his bail request on the day he appears. If the petitioner appears before the committal Court and makes request for recall, the committal Court may consider in the background referred above.

8. With these observations, the petition stands dismissed as not maintainable.

**Sd/-
JUDGE**