

**(2024) 05 KAR CK 0010**  
**In the Karnataka High Court**  
**Case No : Criminal Petition No. 4151 Of 2024**

G. Aditya Devadiga

APPELLANT

Vs

State Of Karnataka, Represented By Kundapura Rural Police  
Station, Kundapura ? 574106, Udupi District. Represented By  
S.P.P, High Court Building, Bengaluru ? 01

RESPONDENT

**Date of Decision : 09-05-2024**

**Acts Referred:**

Indian Penal Code, 1860 — Section 406, 420  
Code Of Criminal Procedure, 1973 — Section 438

**Citation : (2024) 05 KAR CK 0010**

**Hon'ble Judges : M G Uma, J**

**Bench : Single Bench**

**Advocate : Krishna Swamy S., Vinay Mahadevaiah**

**Final Decision : Allowed**

## Judgement

M G Uma, J

1. The petitioner-accused is before this Court seeking grant of anticipatory bail in Crime No.16/2024, of Kundapura Police Station, pending on the file of the District And Sessions Judge Kundapura, registered for the offences punishable under Sections-406 and 420 of Indian Penal Code (for short 'IPC'), on the basis of the first information lodged by the informant - Gopala Shetty.

2. Heard Sri.Krishna Swamy.S, learned counsel for the petitioner and Sri.Vinay Mahadevaiah, learned High Court Government Pleader for the respondent-State. Perused the materials on record.

3. Learned counsel for the petitioner submitted that the petitioner is arrayed as sole accused. He is innocent and law abiding citizen. He has not committed any offence as alleged. He has been falsely implicated in the matter without any basis. He is having apprehension of being arrested, therefore, he is before this Court. Learned counsel for the petitioner submitted that the petitioner had

agreed to purchase a Toyota Urban Cruiser vehicle from the complainant for a total sum of Rs.9,25,000/- and paid an advance amount of Rs.25,000/-. The balance of Rs.9,05,000/- was agreed to be paid through HDFC bank with whom the vehicle was hypothecated. The RC is not yet transferred in the name of the petitioner. In the meanwhile, the complainant filed the first information with the police alleging that the petitioner has not repaid the installments through the HDFC bank. However, the Police did not register the complaint for the reason that the same is purely a civil dispute. However, the complainant filed a private complaint making similar allegations and the trial court directed registration of the FIR and accordingly FIR was registered for the offence punishable under Sections-420 and 406 of IPC. There are no prima-facie case made out against the petitioner. The petitioner is the permanent resident of the address mentioned in the cause title to the petition and is ready and willing to abide by any of the conditions that would be imposed by this Court. Hence, he prays to allow the petition in the interest of justice.

4. Per contra, learned High Court Government Pleader opposing the petition submitted that serious allegations are made against the petitioner for having committed the offence. The petitioner has not appeared before the investigating officer. The investigation is still pending. If the petitioner is granted anticipatory bail, he may never turn up before the Investigating Officer and he may abscond or may commit similar offences, threaten or tamper the prosecution witnesses. Therefore, the petitioner is not entitled for grant of anticipatory bail. Hence, he prays for dismissal of the petition.

5. In view of the rival contentions urged by the learned counsel for both the parties, the point that would arise for my consideration is:

"Whether the petitioner is entitled for grant of bail under Section 438 of Cr.P.C.?"

My answer to the above point is in 'Affirmative' for the following:

#### REASONS

6. According to the complainant there was an agreement between the parties where the petitioner agreed to purchase the Toyota Urban Cruiser from the petitioner for a total sum of Rs.9,25,000/- and an advance amount of Rs.25,000/- was paid. Even though he agreed to pay Rs.9,25,000/- to HDFC bank, he failed to pay the same. First information was lodged by the complainant with the Police, however the police did not register the complaint since the dispute was civil in nature. Later the private complaint was lodged and the Police was directed to register the FIR. Even though serious allegations are made against the petitioner, I do not find any reason to reject the prayer made as the petitioner may be directed to appear before the investigating officer for investigation. Hence, I am of the opinion that the petitioner may be granted anticipatory bail subject to conditions, which will take care of the apprehensions expressed by the learned High Court Government Pleader that the petitioner may abscond or may tamper or threaten the prosecution witnesses.

7. Accordingly, I answer the above point in the affirmative and proceed to pass the following:

ORDER

The petition is allowed.

The petitioner is ordered to be enlarged on bail in the event of his arrest in Crime No. 16/2024, of Kundapura Police Station.

The petitioner is directed to appear before the Investigating Officer within 15 days from the date of receipt of this order and on his appearance, the Investigating Officer shall enlarge him on bail subject to the following conditions:-

- a. The petitioner shall furnish the bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the likesum to the satisfaction of the Investigating Officer;
- b. The petitioner shall not commit similar offences;
- c. The petitioner shall appear before the Investigating Officer or the court as and when required; and
- d. The petitioner shall not threaten or tamper the prosecution witnesses.

On furnishing the sureties by the petitioner, the Investigating Officer is at liberty to verify the correctness of the address and authenticity of the documents furnished by him. On satisfaction of the said documents, he may proceed to accept the sureties within a reasonable time.