

**IN THE COURT OF LXIX ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE (CCH 70)**

Present: Sri. Gururaj Somakkalava, M.A.,LL.B
LXIX Additional City Civil and
Sessions Judge,
Bengaluru.

Dated this the 8th day of October , 2021

Crl.Misc.No.8608/2021

Petitioner : Naresh Kumar R.P.
s/o Sri. R.V.Pandu
Aged about 52 years,
CEO M/s Edurays India
having its office at
No. 217, Virushabhavathi nagar,
17th main, Banashankari 6th stage,
Bengaluru 560 109.

Permanent resident of
No. 228, 10th main,
15th `c` cross
Srinidhi layout, Konankunte.,
Bengaluru City 560 062

(By Sri Murthy D.Naik, Advocate)

Vs.

Respondent : State of Karnataka
By JP Nagar P.S. Bengaluru.

(By Public Prosecutor)

**ORDER ON BAIL PETITION FILED
U/SEC. 438 OF CR.P.C.**

The petitioner who has been arrayed as accused No.2 in Crime No. 88/2017 on the file of respondent PS for the offences punishable u/sec. 120B, 420, 465, 468, 469, 471 r/w 34 of IPC has filed this bail petition seeking an order of anticipatory bail.

2. Petitioner contended that he is innocent of the offences alleged, he has been falsely implicated in this case, every transaction carried out by the petitioner and `Utility` is in strict adherence to the guidelines and the norms laid down by UIDAI and by no stretch of imagination can it be said that an offence has been committed by the petitioner, the offence alleged is not punishable with imprisonment for life or death, the accused No.1 approached the High Court for quashing the FIR No. 88/2017 and the High Court by its order dated 25.4.2017 granted interim stay for further proceeding in FIR No. 88/2017. The petitioner has no bad antecedents, the documents are already seized by the respondent police and investigation is almost completed. He is ready to abide all the terms and conditions that may be imposed by this court and ready to appear before the IO as and when required. With these amongst other grounds Petitioner prays for grant of anticipatory bail.

3. Per contra the learned Public Prosecutor filed objection by reiterating the facts alleged in the complaint and opposed the bail petition. It is contended that if the bail is granted the petitioner may abscond and may flee away from justice.

4. Heard the arguments of both sides and perused the materials available on record.

5. The points that arise for my consideration are as under:

- i. Whether petitioner is justified in seeking regular bail u/sec. 439 of Cr.P.C.?
- ii. What order?

6. My finding on the above points are as follows:

- i. Point No.1: In the affirmative.
- ii. Point No.2: As per final order on the following

REASONS

7. On perusal of the papers available on record it is clear that Deputy Director, Government of India, Ministry of Electronics and Information Technology, Unique Identification Authority of India (UIDAI) has lodged the complaint against M/s Edurays India Pvt. Ltd alleging that M/s Edurays India are misleading the public that they are authorized to sublet the enrolment process to individuals for a cost and collect money from the public, thereby causing immense harm to the public image on UIDAI and to the public at large and such deliberate misdeeds of the accused impedes the progress of Government of India schemes meant for the benefit of individuals. It is further alleged that from the documents supplied it could be ascertained that the contract entered is only for Man Power and resource supply, however M/s Edurays in connivance with M/s Utility Forms Pvt. Ltd were involved in selling the kits and in the process subletting which is not allowed as per

UIDAI norms. Accordingly this complaint came to be lodged against 3 accused persons who are the officials of M/s Edurays India Ltd and Utility Forms Pvt. Ltd. But the petitioner contends that he has not committed any offence and their company is adhering to the guidelines of the Agreement.

8. On the other hand the learned PP contended that if the bail is granted, he may flee away from justice. It is further contended that the IO has seized the Aadhar kit and subjected the same to PF. The IO has to record the statement of the witnesses and to recover other incriminating materials.

9. After hearing the arguments and giving thoughtful consideration to the material placed before this court, it reveals that the respondent police registered Cr.No.88/2017 against the petitioner and others. There is a allegation that the petitioner and others committed above said offences. The petitioner has denied the said allegations alleged in complaint. At this juncture whether the petitioner has made out case for anticipatory bail is to be looked into. It is alleged that the accused cheated the general public. The petitioner contends that he has not committed any crime as alleged by the complainant. The co accused has been granted bail. However the allegations are matter of investigation and trial. The investigation is pending. The petitioner has produced the copy of the order of Hon`ble High Court in Crl.P. No. 3683/2017 and 3684/2017 and other relevant documents. Hence on the stringent conditions the petitioner can be granted bail. For the reasons assigned above there is a sufficient grounds in favor of petitioner to

enlarge him on bail. At this junction the petitioner has made out grounds to grant anticipatory bail.

10. By now it is settled position that the court while considering the bail petition need not dwell upon the merits of the case or examine the veracity of the complaint allegations, as such an attempt by the court would prejudice the case on either side in one way or the other way during the trial Court. In other words only on the basis of the prima-facie material on record the court has to decide whether to grant or reject the bail application.

11. Holding mini trial by the court while considering the bail petition is deprecated by the Hon`ble Apex Court and various other Hon`ble High Courts in catena of judicial pronouncements, as such in exercise, in the opinion of the Apex Court, would affect the case of either party in one way or the other. Thus desisting from holding the mini trial on the basis of prima-facie material on record, this court is of the considerable view that at this stage there are no strong grounds so as to deny the anticipatory bail to the petitioner. Though the allegations of cheating have been made against the accused/petitioner, but the said allegations have to be proved through full pledged trial.

12. One of the consideration that has to be kept in mind by the court while granting bail is to ensure presence of the petitioner/accused before the court or the Investigating Officer as and when necessary. In the case on hand the petitioner is the permanent resident of address given in the cause title of the petition, which has not been either denied or disputed by the prosecution. At

this stage there is nothing on record to infer that the presence of the petitioner/accused cannot be secured before the court in the event of grant of an bail. The petitioner has undertaken to abide by the conditions of the court and to offer surety for the satisfaction of the court.

13. Apprehension of the prosecution is made out in the objection statement that in the event of the grant of bail the petitioner is likely to tamper with the prosecution witnesses etc., can be quelled by putting the petitioner on stringent conditions while granting anticipatory bail. The investigation is under progress. Considering the dispute between the parties and the punishment provided thereto it can be said that the petitioner has made out grounds for grant of anticipatory bail. Thus, the petitioner is entitled for grant of anticipatory bail. Hence, this point is answered in the affirmative.

14. Point No.2: In the learned above reasons, I proceed to pass the following;

ORDER

Bail petition filed under Sec. 438 of Cr.P.C. by the Petitioner is allowed.

Petitioner is ordered to be released on anticipatory bail in CR No.88/2017 on executing his personal bond for Rs.1,00,000/- with two sureties for the likesum (out of two sureties, one surety must be the surety of Government servant) on the following conditions.

1. The petitioner shall appear before the IO within 10 days from the date of this order.
2. The Petitioner shall not tamper with the Prosecution witnesses either directly or

indirectly in any manner.

3. he shall not abscond from his ordinary residence and he should furnish the address proof to the concerned police.
4. he shall not indulge in any kind of offence.
5. he shall not leave the jurisdiction of the court without prior permission.

If any of the above conditions violated the IO is at liberty to move for cancellation of bail.

(Dictated to the JW on computer, script thereof is corrected, signed and pronounced by me in open court on this the 7th day of October, 2021)

(Gururaj Somakkalavar)
LXIX Addl.C.C. & Sessions Judge,
Bengaluru.