

IN THE HIGH COURT OF KARNATAKA BANGALORE

DATED THIS THE 28 TH DAY OF DECEMBER, 2012

BEFORE

THE HON' BLE DR. JUSTICE JAWAD RAHIM

CRL.P NO 7532 OF 2012

BETWEEN

S PRABHAKARA  
S/O LATE SRINIVASA MURTHY,  
AGED ABOUT 40 YEARS,  
RESIDING AT NO-12,  
"VENKATADRI",  
BANK COLONY, THINDLU MAIN ROAD,  
VIDYARANYAPURA POST,  
BANGALORE-560097.

... PETITIONER

(BY SHRI. RAMACHANDRA G BHAT, ADVOCATE)

AND

THE STATE OF KARNATAKA  
BY STATE PUBLIC PROSECUTOR,  
HIGH COURT BUILDING,  
BANGALORE-560001.

... RESPONDENT

(BY SHRI.RAJA SUBRAMANYA BHAT, HCGP)

CRL.P FILED U/S.438 CR.P.C BY THE ADVOCATE FOR  
THE PETITIONER PRAYING THAT THIS HON'BLE COURT  
MAY BE PLEASED TO ENLARGE THE PETITIONER ON BAIL  
IN THE EVENT OF HIS ARREST IN CR. NO.321/2012 OF  
KODIGEHALI P.S., BANGALORE CITY, WHICH IS

REGISTERED FOR THE OFFENCE P/U/S  
406,408,409,420,468,471 R/W SEC.34 OF IPC.

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

ORDER

Petitioner who is accused no.2 in Crime No.321/2012  
is facing charge for offences punishable under Sections  
406, 408, 409, 420, 468 and 471 read with Section 34 of  
the IPC.

2. Apprehending arrest, he seeks for a direction to  
release him on bail.

3. Heard both sides.

4. State has opposed the bail petition.

5. The records reveal that one Guruprasad Rai,  
President, Sahakaranagar Credit Co-operative Society,  
Bangalore, has lodged a complaint on 17.11.2012, alleging  
during the year 2011-12 upto April and May 2012, a sum  
of Rs.2,02,50,920/- was misappropriated. It was found out  
only through the audit conducted as Kiran Kumar and

others are alleged to have indulged in such misappropriation.

6. The petitioner is ranked as accused no.2 on the ground that he was the secretary of the society during the relevant period. During the course of investigation, Kiran Kumar was arrested and he is in Judicial Custody while the present accused has not been arrested.

7. According to the prosecution, one K.V. Prashanth, a clerk has misappropriated a sum of Rs.1.00 crore and other accused Kiran Kumar has misappropriated the balance amount. So far as this petitioner is concerned, it is alleged being the secretary he has failed to discharge his duties resulting in such crime.

8. No doubt, misappropriation is more than a sum of rupees two crores, but the complainant himself has alleged that Kiran Kumar and Prabhakar are the main offenders, who have misappropriated the amount. As far as the petitioner is concerned, he has been indicted on the ground that he has failed to discharge his duties in preventing such loss to the society. In these circumstances, without expressing any opinion on merit, I

am satisfied as the material requires to be examined on documentary evidence which is already in the possession of the prosecution and the petitioner may not succeed in tampering the same. Besides, as there is no allegation that he is a beneficiary of the amount misappropriated, I am inclined to accept the bail petition.

9. Hence, the bail petition is allowed on the following conditions;

i) The petitioner is directed to appear before the investigating officer in charge of investigation in Crime No.321/12 of Kodigehalli P.S., within two weeks and on his appearance, the investigating officer may arrest him and shall release him on bail on his executing a bond in a sum of Rs.50,000/- with one solvent surety for the like sum to the satisfaction of the said officer.

ii) He shall appear before the investigating officer as and when required and subject himself to interrogation without causing any impediment in the investigation.

iii) He shall not leave the jurisdiction of the Trial Court without prior permission.

iv) He shall not tamper the prosecution material or evidence in any manner.

**SD/-  
JUDGE**

Msu