

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

Dated this the 28th day of May, 2015

BEFORE

THE HON'BLE MR. JUSTICE P.S. DINESH KUMAR

Criminal Petition No.2736/2015

BETWEEN

MANJUNATH Y R
S/O RAMIAH Y N
AGED ABOUT 36 YEARS
NO.224, 4TH CROSS, KURUBARA HALLI
MAHALAXMIPUR POST
BENGALURU-560 086 ... PETITIONER

(By Sri PARAMESHWAR N. HEGDE, ADV.,)

AND

STATE OF KARNATAKA
THROUGH HUBBALLI TOWN P.S.,
REPRESENTED BY S.P.P.
HIGH COURT OF KARNATAKA
BENGALURU-560 001 ... RESPONDENT

(By Sri K. NAGESHWARAPPA, HCGP)

THIS CRL.P FILED U/S.438 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING TO ENLARGE THE PETR. ON BAIL, IN THE EVENT OF ARREST, IN CR. NO.38/2015 OF HUBBALLI TOWN P.S., HUBBALLI DHARWAD DIST., FOR THE OFFENCES P/U/Ss.120-A, 120B, 408, 420, 477A R/W 34 OF IPC. THE I ADDL. DIST. & SESSIONS JUDGE, DHARWAD, SITTING AT HUBBALLI

HAS DISMISSED THE BAIL PETITION ON 10.4.2015 IN
CRL.MISC.NO.258/2015.

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

ORDER

Petitioner is accused No.3 in Crime No.38/2015 registered in Hubballi Town Police Station on 30.3.2015 for offences punishable under Sections 408, 420, 477A, 120A, 120B read with Section 34 IPC. Petitioner's application for bail before the I-Additional District and Sessions Judge, Dharwad, (sitting at Hubballi) in Crl.Misc.No.258/2015 having been rejected vide order dated 10.04.2015, has preferred this petition.

2. Heard Sri Parameshwar N. Hegde, learned Counsel for the petitioner, Sri K. Nageshwarappa, learned Addl. SPP for the respondent - State and perused the records.

3. It is submitted by the learned Counsel for the petitioner that the petitioner was an employee of M/s. Techno Cart India Limited between 19.1.2009 to 14.11.2014. His resignation has been accepted and a 'no due certificate' dated 30.11.2014 has been issued to him. Notwithstanding the same, the Complainant has named the petitioner in the complaint dated 30.3.2015. He submits that after issuing a 'no due certificate', the complaint containing allegations of embezzlement is not maintainable qua the petitioner. He submits that reason assigned by the learned Sessions Judge that the investigation is in progress to reject the bail petition is not sustainable in law and accordingly prays that the petition may be allowed and the petitioner be granted anticipatory bail.

4. Per contra, learned Addl. SPP opposes the bail petition contending *inter alia* that the petitioner was admittedly an employee of the complainant – Company

and his involvement, if any, requires to be examined by the Investigating Officer and accordingly prays for dismissal of the petition.

5. The no due certificate produced by the petitioner reveals that he was relieved from his duties w.e.f. 30.11.2014 pursuant to acceptance of his resignation. In the circumstances, *prima-facie*, it appears that the complaint against the petitioner is not maintainable. However, a 'no due certificate' cannot be construed as a blanket immunity. It shall be lawful for a former employee to re-examine past transaction if any embezzlement is suspected. In the light of the fact that the petitioner has the benefit of a 'no due certificate' it shall be appropriate to protect him from threat of detention and at the same time permit the respondent to complete investigation. In the circumstances, in my opinion, this petition deserves consideration and the

petitioner is entitled for anticipatory bail. Accordingly, I proceed to pass the following:-

ORDER

- (i) Petitioner shall be released on anticipatory bail in the event of his arrest in Crime No.38/2015 registered in Hubballi Town Police Station, upon his executing a personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with one surety for the likesum to the satisfaction of the Investigating Officer.
- (ii) Petitioner shall surrender before the jurisdictional police on or before 12-06-2014 and fully co-operate with the investigation
- (iv) Petitioner shall not directly or indirectly make any inducement, threat or promise to prosecution witness or any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the IO/Court.

- (v) Petitioner shall not manipulate or hold out threats to the prosecution witnesses in any manner.
- (vi) Petitioner shall not involve themselves in any criminal activities.

**Sd/-
JUDGE**

cp*