

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF DECEMBER 2015

BEFORE

THE HON'BLE MR. JUSTICE B.MANOHAR

CRIMINAL PETITION NO.8861 OF 2015

BETWEEN:

MAHESH
S/O LATE L. KRISHNAJI RAO
AGED ABOUT 41 YEARS
TROLLEY MAN IN RAILWAY
DEPARTMENT, MYSORE
R/AT NO.55/B,
RAILWAY QUARTERS
LOKO COLONY
MYSORE – 570 021

...PETITIONER

(BY SRI.V LAKSHMI KANTHA RAO, ADV.)

AND:

STATE BY KARNATAKA
BY SHIMOGA RURAL CIRCLE
SHIMOGA
REPRESENTED BY
PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE – 560 001

...RESPONDENT

(BY SRI.K NAGESHWARAPPA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR. NO. 557/2015 OF SHIVAMOGGA RURAL P.S., SHIVAMOGGA DISTRICT FOR THE OFFENCE P/U/S 420 R/W 34 OF IPC.

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

ORDER

This petition is filed by the petitioner under Section 439 Cr.P.C seeking for his release on bail in Crime No.557/2015 for the offences punishable under Section 420 r/w Section 34 of IPC of Shivamogga Rural Police Station.

2. Case of the prosecution is that, on the basis of the complaint lodged by one P.B Mallappa on 16.10.2015, the police have registered a case in Crime No.557/2015 against the petitioner and others. In the complaint it is alleged that P.B. Mallappa in order to secure job to his son paid a sum of Rs.7.00 lakhs to

Yeshwanthappa, who is accused No.1. Accused No.1 in collusion with other accused have received the amount in the guise of getting job in Railway Department. The petitioner being accused No.3 working in the said railway department is also involved in the case and hence registered the case against him and arrayed as accused No.3. The petitioner has filed the petition under section 439 of Cr.P.C., before the Sessions Judge, and the said application came to be rejected by the Sessions Judge. Hence this petition.

3. Sri. V. Lakshmikantha Rao, learned counsel appearing for the petitioner contented that the petitioner is not at all involved in any of the offences alleged against him. He is working as a Group 'D' employee in the Railway department at Mysuru. He has not assured anybody to get the appointment in the Railways. He has not received any amount from Yeshwanthappa. In the complaint also his name is not

mentioned. The Police have falsely implicated the petitioner at the instance of the complainant. Hence he requested this court to grant bail.

4. The learned Government Pleader appeared for the respondent opposed for grant of bail on the ground that the petitioner is also involved in the said racket of getting job to the needy persons. At this stage, if the petitioner is granted with bail, he is likely to tamper with the prosecution witnesses and sought for dismissal of the same.

5. I have carefully considered the arguments addressed by the learned counsel for the petitioner as well as learned HCGP for the respondent and also gone through the copy of the complaint, FIR and the order passed by the Trial Court.

6. Admittedly, the complaint was lodged by one P.B. Mallappa against Yeshwanthappa who had assured

that he would secure appointment to the son of complainant as Group 'D' employees in the Railway Department and took sum of Rs.7,00,000/- from the complainant. However, he neither returned the said amount nor got the appointment to his son. In view of that he filed the complaint. In the complaint, this petitioner's name is not mentioned. There is no allegation made against this petitioner. However, in the FIR, name of the petitioner was included on the ground that he was a distant relative of Yeshwanthappa. No document has been placed to show that he was involved in any of the case for the offence punishable under Section 420 read with 34 of IPC.

7. Taking into consideration the facts of the case, I am of the opinion that it is a fit case to grant bail. Accordingly, I pass the following:

ORDER

8. The Criminal petition is allowed. The petitioner – accused is ordered to be released on bail for the offences alleged in Crime No.557/2015 subject to the following conditions.

i) The petitioner shall execute the personal bond in a sum of Rs.50,000/- (Rupees fifty thousand only), with two sureties for the likesum to the satisfaction of the Trial Court.

(ii) The petitioner shall make himself available for interrogation by the investigating officer, as and when he is required.

(iii) The petitioner shall not directly or indirectly induce threat to any person acquainted with the facts of the case.

(iv) The petitioner shall attend the Court as and when he is directed.

If the petitioner violates any one of the above conditions imposed on him, prosecution is at liberty to seek cancellation of bail from the Concerned Sessions Court.

Sd/-
JUDGE

HR