

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 29TH DAY OF DECEMBER, 2016

:BEFORE:

THE HON'BLE MR.JUSTICE K.SOMASHEKAR

CRIMINAL PETITION NO.8918/2016

BETWEEN:

G.K.PANDURANGA
S/O G.N.KESHAVA
AGED ABOUT 28 YERS
R/AT:GOWRIKOPPALU VILLAGE
KASABA HOBLI
CHANNARAYAPATNA TALUK
HASSAN DISTRICT – 34.

... PETITIONER

(BY SRI PRATHEEP.K.C. ADV.,)

AND:

THE STATE OF KARNATAKA
REP. BY CHANNARAYAPATNA
RURAL POLICE STATION
HASSAN DISTRICT
REP. BY ITS
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE – 01.

... RESPONDENT

(BY SRI K.NAGESHWARAPPA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 CR. P. C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.No.57/2016 OF CHANNARAYAPATNA RURAL P.S., HASSAN DISTRICT FOR THE OFFENCE P/U/S 4(1A), 21 OF MMDR ACT AND SECTION 379 OF IPC AND SECTION 44 OF KMMCR RULE.

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

O R D E R

This petition is filed under Section 438 of Cr.P.C. seeking anticipatory bail in Crime No.57/2016 of Channarayapatna Rural Police Station, for the alleged offence punishable under Section 4(1A), 21 of MMDR Act, 1957 and Section 379 of IPC and Section 44 of KMMCR Rule, 1994.

2. Heard the learned counsel for the petitioner as well as the learned HCGP for the respondent.

3. The complaint allegations are that the accused committed theft of sand by extracting the same from the River without paying any royalty to the Government and transporting the same in a lorry bearing registration No.KA-06-D-1223. On the basis of the complaint, the Channarayapatna Rural Police Station have registered a case in Cr.No.57/2016.

4. Learned counsel for the petitioner during the course of arguments contended that the accused is an innocent person and he has not committed any offence as alleged by the prosecution. The petitioner hails from respectable family and he has been falsely implicated in the alleged offence. Moreover, the accused is ready to abide by any terms and conditions imposed by this Court. Therefore, learned counsel is praying for considering the grounds urged in this petition and for grant of bail.

5. Per contra, learned HCGP for the respondent has submitted that there is *prima facie* material against the accused in committing the alleged offence as narrated in the complaint. The petitioner is absconding since from the date of the alleged offence, that itself indicates the involvement of the petitioner in commission of the alleged offence. He has further contended that subsequent to registration of the crime, case is still under investigation and it requires recording of statement of

witnesses as well as the materials are to be collected by the I.O. He further submits that if the accused is released on bail, certainly he would come in the way of the prosecution case and destroy the evidence. Therefore, accused does not deserve bail.

6. Having regard to the submissions of the learned counsel for the petitioner/accused and learned HCGP, it is relevant to consider that on the basis of a complaint lodged by the complainant, a case has been registered against the accused for the alleged offence punishable under Section 4(1A), 21 of MMDR Act, 1957 and Section 379 of IPC and Section 44 of KMMCR Rule, 1994. However, subsequent to registration of the case, it is under investigation and it requires recording statement of witnesses and collecting material documents. Therefore, at this stage, allegations made in the complaint does not require detailed discussion while considering bail petition filed by accused. The apprehension of learned Govt. Pleader could be suitably met with by

imposing appropriate conditions to safeguard the interest of the prosecution.

7. Therefore, for the aforesaid reasons as well as in the circumstances, I am of the considered opinion that the accused person deserves bail. Hence, I proceed to pass the following:

ORDER

The Petition is hereby ***allowed*** subject to following conditions:

- (i) Petitioner-accused shall appear before the Investigating officer in Crime No.57/2016 of Channarayapatna Rural Police Station within 20 days from the date of receipt of a copy of this order, by executing a personal bond for a sum of ₹50,000/- (Rupees fifty thousand only) with one surety for the like sum to the satisfaction of the I.O in the event of his arrest.

- (ii) Petitioner-accused shall co-operate with the investigating officer during the course of investigation.
- (iii) Petitioner-accused shall not tamper or hamper the case of the prosecution witnesses.
- (iv) Petitioner-accused shall mark his attendance once in fortnight as per English monthly calendar between 10.00 a.m., and 5.00 p.m., for a period of three months before the concerned SHO.
- (v) Petitioner-accused shall not indulge in any criminal activities henceforth.

Sd/-
JUDGE

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