

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF DECEMBER 2016

BEFORE

THE HON'BLE MR.JUSTICE K. SOMASHEKAR

CRIMINAL PETITION NO.9632 OF 2016

Between:

1. Ramesha (A-1)
S/o. Shankar,
Aged about 33 years,
Sathegala village,
Kollegala Taluk,
Chamarajanagar District-571 440.
2. Krishna (A-2)
S/o. Dandhimadaiah,
Aged about 36 years,
R/at Kadegaddadoddi village,
Sathegalahand Post,
Chamarajanagar District 571 440.
3. Basavanna (A-3)
S/o. Naganna,
Aged about 32 years,
Sathegalahand Post,
Kollegal Taluk,
Chamarajanagar District 571 440. ...PETITIONERS

(By Sri. Manjunath N.D. Advocate)

And:

The State of Karnataka,

Through Kollegala Rural Police Station
Kollegala Taluk,
Chamarajanagara District
Rep.by SPP
High Court, Bengaluru.

....RESPONDENT

(By Sri. K. Nageshwarappa, HCGP)

This Criminal petition is filed under Section 438 of Cr.P.C. praying to enlarge the petitioners on bail in the event of their arrest in Cr.No.250/2016 of Kollegala Rural P.S. Kollegala Circle, Chamarajanagara for the offences punishable under Sections 21(4), 21(4A), of MMDR Act, 1957 and Under Sections 42(1), 43(2), 31R(13) of KMMCR Rules 1994 and under Sections 379, 353, 332, 354 read with Section 34 of IPC.

This Criminal Petition coming on for orders this day, the Court made the following:

ORDER

Heard the learned counsel for the petitioners who are accused Nos. 1,2 and 3 respectively and learned Government Pleader for respondent.

2. This petition is filed by the petitioners/accused under Section 438 of Cr.P.C. seeking anticipatory bail in Cr.No.250/2016 of Kollegala Rural P.S. Kollegala Circle,

Chamarajanagara, in respect of the offences punishable under Sections 21(4), 21(4A), of MMRD Act, 1957 and Under Sections 42(1), 43(2), 31R(13) of KMMCR Rules 1994 and under Sections 379, 353, 332, 354 read with Section 34 of IPC.

3. Learned counsel for the petitioners, during the course of arguments, has contended that the accused were falsely implicated at the instance of their enemies. The respondent-Police have registered a case against the accused in Crime No. 250/2016, alleging that, the accused used tractor bearing Registration No.KA.10.T.5931 and two two-wheelers bearing Registration Nos. KA.10.U.1629 and KA.02.EC.2668 for transporting the sand illegally on 29.10.2016 at about 7.30 p.m. It is further alleged that, on a credible information, respondent-Police have formed a team and had been to the spot near Kadegadde temple curve of Shivanasamudra and they

were waiting. At about 10.00 p.m. one tractor and one two wheeler came from Sathegala Hand Post and the police officials gave signal to stop the Tractor and the driver stopped the Tractor and then Police officials observed the Tractor with the help of torch and found that there was sand in the Tractor and two persons came on two wheeler and they did not produce any permit or licence and when they tried to catch hold the driver of the Tractor, driver of the Tractor and also two wheeler owners ran away from the spot. It is further alleged that petitioner No.1 is the owner of the Tractor and petitioner No.3 is the owner of two wheeler and petitioner No.2 is the driver of the Tractor.

4. Learned counsel for the petitioners has further contended that, petitioners hail from very respectable family and are ready to abide by any conditions imposed by this Court and furnish adequate

sureties to the satisfaction of the court. Hence, prays that considering the reasons made out in the petition they be granted anticipatory bail by allowing the petition.

5. Per contra, learned Government Pleader appearing for respondent-Police has vehemently opposed the bail petition on the ground that there are prima facie materials against these petitioners and that the petitioners are absconding from the date of commission of the offences and on credible information received that the accused are transporting the sand illegally in the tractor, when questioned accused have not produced any permit or licence and when they tried to catch them, they ran-away from the spot. Further, he contends that, if anticipatory bail is granted to the petitioners, they would come in the way of prosecution case and they may tamper with the prosecution witnesses and hamper the

investigation. Hence, he prayed for dismissal of the bail petition.

6. Having heard the learned counsel for the petitioners and learned Government Pleader and on perusal of the records, it is clear that Crime No. 250/2016 had been registered against the accused. The case is still under investigation. The petitioners are permanent residents and have undertaken to obey any conditions imposed by this Court. The apprehension of the learned Government Pleader that if the petitioners are enlarged on bail, they would tamper with the prosecution witnesses and hamper the prosecution case, it could be suitably met with, by imposing certain conditions to safeguard the interest of the prosecution.

7. Therefore, in the above said facts and circumstances of the case, I am of the considered view that, the petition is liable to be allowed by

granting anticipatory bail to the petitioners, subject to the following conditions:-

ORDER

The petition filed by the petitioners/accused under Section 438 of Cr.P.C. is allowed.

The petitioners shall be released on bail in the event of their arrest in connection with Cr.No.250/2016 of Kollegala Rural Police on the following conditions:-

(i) Petitioners shall appear themselves before the Investigating Officer within twenty days from the date of receipt of a copy of this order and shall execute a personal bonds for a sum of Rs.50,000/- (Rupees Fifty thousand only), each, with one surety for the likesum to the satisfaction of the Investigating Officer.

(ii) Petitioners/accused shall cooperate with the IO during the course of investigation.

(iii) Petitioners/Accused shall not indulge in hampering the investigation and tamper the prosecution witnesses.

iv). Petitioners/Accused shall mark their attendance before the Investigating Officer once in fortnight as per the English monthly calendar in between 10. A.M. and 5.00 P.M. till the filing of the final report or for a period of three months.

(v) Petitioners/accused shall not indulge in any criminal activities, hence forth.

**SD/-
JUDGE**

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