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**IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH**

Dated this the 31<sup>st</sup> day of March, 2017

Before

**THE HON'BLE MR. JUSTICE BUDIHAL R.B.**

**Criminal Petition No.100483/2017**

Between:

1. Shri.Rajakumar  
S/o Mahadevappa Jingade,  
Age: 48 years, Occ: Nil,  
R/o Gajendragad, Tal-Ron,  
Dist- Gadag.
2. Tukaram S/o Mahadevappa Jingde,  
Age : 39 years, Occ –Nil,  
R/o Gajendragad, Tal-Ron,  
Dist-Gadag.

...Petitioners

(By Sri Shrikant T.Patil, Advocate (absent))

A n d :

The State of Karnataka,  
Gajendragad Police Station,  
R/by S.P.P. High Court of  
Karnataka, Dharwad.

...Respondent

(By Sri Praveen K.Uppar, HCGP)

This petition is filed under Section 438 of Cr.P.C. seeking to anticipatory order of bail be granted in favour of petitioners in the Gajendragad Police Station has registered Crime No.19/2017 for the offences punishable under Sections 420, 465, 468 and 471 read with Section 34 of IPC.

This petition coming on for Orders this day, the Court, made the following:

### **ORDER**

Learned counsel appearing for the petitioner is absent. Heard the learned High Court Govt.Pleader.

2. This is the petition filed by petitioners-accused Nos.1 and 2 under Section 438 of Cr.P.C., seeking anticipatory bail to direct the respondent-police to release the petitioners on bail in the event of their arrest for the alleged offence punishable under Sections 420, 465, 468 and 471 r/w Section 34 of I.P.C. registered in respondent-police station Crime No.19/2017.

3. Brief facts of the prosecution case as averred in the complaint that, complaint is given by the Tahsildar,

Ron stating that on 18.01.2017, Revenue Inspector received an application of one Andanappa alleging that petitioners by giving forged documents are taking benefits of handicapped monthly pension from the Government. So the complainant enquired the Health Officer, Ron about the disability of the petitioners and came to know that petitioner No.1 is having 45% of disability and petitioner No.2 is having 60% of disability. However, the petitioners by creating forged documents had got entered their disability to the extent of 75% and are taking handicap pension of Rs.1,200/- per month since 11.05.2015 by cheating the Government. On the basis of the said complaint, case came to be registered as against petitioner Nos.1 and 2.

4. Learned High Court Govt.Pleader during the course of his arguments made the submission and he fairly conceded that it is no doubt true petitioner Nos.1 and 2 are handicapped persons, but the percentage of handicapness was 45% in respect of petitioner No.1 and

60% in respect of petitioner No.2. Learned High Court Govt.Pleader further submitted that they have created false documents to the effect that the accident of disability is 75% and thereby they are taking handicap pension of Rs.1,200/- per month and cheated the Government. Hence, he submitted that the offences are serious in nature in order to cause loss to the Government and hence petitioners are not entitled to be granted bail.

5. I have perused the FIR, complaint and order dated 04.03.2017 passed by the learned Prl.District and Sessions Judge, Gadag rejecting the bail application.

6. Looking to the contentions urged in the bail petition so also the averments in the complaint and looking to the order passed by the learned District and Sessions Judge, one thing is clear that petitioner Nos.1 and 2 admittedly handicapped persons, but the question is what is the percentage of disability and the main allegation of the complainant that they are having the disability of 45% and 60% respectively, but by creating false documents the

percentage of disability has been entered to the extent of 75%. It is a matter of trial and the petitioners contended in their bail petition that they are innocent and not committed the alleged offences and they are ready to abide by any conditions to be imposed by the Court. Hence, the alleged offences are also triable by the Magistrate Court and they are not exclusively punishable with death or life imprisonment.

7. Accordingly, petition is allowed. Petitioners-accused Nos.1 and 2 are ordered to be released on bail. Respondent-police are hereby directed to release the petitioners-accused Nos.1 and 2 on bail in the event of their arrest for the said offences punishable under Sections 420, 465, 468 and 471 r/w Section 34 of I.P.C. registered in respondent police station Crime No.19/2017, subject to the following conditions:

- a) Petitioners shall execute a personal bond for a sum of Rs.50,000/- each with one surety for the likesum with the satisfaction of arresting authority.

- b) Petitioners shall not tamper with the prosecution witnesses directly or indirectly.
- c) Petitioners shall appear before the concerned Investigating Officer as and when called for investigation.
- d) Petitioners have to appear before the concerned Court within 30 days from the date of this order and to execute personal bond and the surety bond.

**Sd/-  
JUDGE**

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