

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF MARCH, 2018

BEFORE

THE HON'BLE Mr. JUSTICE SREENIVAS HARISH KUMAR

CRIMINAL PETITION No.294/2018

BETWEEN:

H.K. KHADAR KHAN
AGED 48 YEARS
S/O H. KHALANDAR KHAN
EX-PRESIDENT
MUSLIM HOSTEL
OLD MARKET ROAD
CHITRADURGA TOWN-577546.

...PETITIONER

(BY SRI. R.B. SADASHIVAPPA, ADV., FOR
SRI. SHAMS AHMED PATHAN, ADV.,)

AND:

STATE OF KARNATAKA BY
CHITRADURGA TOWN P.S.
CHITRADURGA
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
AMBEDKAR VEEDHI
BANGALORE-560001.

...RESPONDENT

(BY SRI. S. VISHWA MURTHY, HCGP)

. . . .

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438 CR.P.C., PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN CR.NO.442/2017 OF CHITRADURGA TOWN POLICE STATION, CHITRADURGA DISTRICT FOR THE OFFENCE P/U/S 166, 403, 406, 418, 419, 420, 426 OF IPC.

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

ORDER

This is a petition filed under Section 438 of Cr.P.C. The Wakf Board presented a private complaint under Section 200 Cr.P.C. against this petitioner in the Court of Judicial Magistrate First Class, Chitradurga. The said complaint was referred to police for investigation under Section 156(3) of Cr.P.C. Based on this, the Chitradurga Town Police registered an FIR in Cr.No.442/2017 for the offences punishable under Sections 166, 403, 406, 418, 419, 420 and 426 of IPC.

On account of arrest, the petitioner has moved this Court for anticipatory bail. The learned Sessions Judge rejected the petitioner's application for anticipatory bail.

2. Heard the petitioner's counsel and the learned HCGP appearing for the respondent-State.

3. In the year 2003, the petitioner-accused was appointed as the President of District Muslim Hostel, Old Market Road, which is a Wakf property. The allegations are that he misappropriated the funds of the hostel without providing any facilities to the students. The FIR discloses that the misappropriation of the amount spreads for the period 2003-2017.

4. It appears that in this regard a complaint was made to Karnataka Lokayukta, Bengaluru. A report was given by the Upa Lokayukta stating that action can be taken against this petitioner to recover the

loss caused to the Government. It appears that no action was taken pursuant to the report. Since the Wakf Board issued a notice to the petitioner, he approached the Wakf Tribunal by filing an Application No.28/2003 and the said application was dismissed as infructuous because the petitioner's tenure as President had come to an end. On perusal of all these documents, it can be stated that because of the registration of FIR against the petitioner pursuant to the private complaint made by the Wakf Board, he has apprehension of being arrested is well founded. If any investigation is to be made, it may be based on the records and custodial interrogation of the petitioner may not be necessary. Therefore, I come to the conclusion that this petitioner can be admitted to anticipatory bail by subjecting him to certain stringent conditions. Hence, I pass the following:

ORDER

(a) Petition is allowed.

(b) It is hereby ordered that in the event of the petitioner being arrested by the respondent-police in connection with Crime No.442/2017, he shall be released on bail on his executing a bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) and providing two sureties for the likesum to the satisfaction of the investigation officer. The petitioner is also subjected to the following conditions:

(i) He shall cooperate with the police during investigation.

(ii) Until investigation is over, the petitioner shall not leave the jurisdiction of the trial court.

(ii) The petitioner shall mark his attendance in the respondent police station once in a fortnight on a Sunday between 9.00 AM till 12.00 Noon, till investigation is completed.

**Sd/-
JUDGE**

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