

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF DECEMBER, 2018

BEFORE

THE HON'BLE MR. JUSTICE H. P. SANDESH

CRIMINAL PETITION NO.9616 OF 2018

BETWEEN:

CHANDRAKANTH M @
CHANDRAKANTH MADIVALAR,
S/O. MALLIKARJUN,
AGED ABOUT 26 YEARS,
R/AT NO.42/2, GROUND FLOOR,
6TH MAIN ROAD, 13TH CROSS,
AGRAHARA DASARAHALLI,
MAGADI MAIN ROAD,
BENGALURU – 560 079. ... PETITIONER

(BY SRI. H.R.VEERA REDDY, ADVOCATE)

AND:

THE STATE OF KARNATAKA BY
JNANABHARATHI POLICE STATION,
BENGALURU.
REPRESENTED BY THEIR
STATE PUBLIC PROSECUTOR,
HIGH COURT COMPLEX,
BENGALURU – 560 001. ... RESPONDENT

(BY SRI. DIVAKAR MADDUR, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION
439 CR.P.C. PRAYING TO ENLARGE THE PETITIONER ON
BAIL IN CRIME NO.158/2018 OF JNANABHARATHI POLICE

STATION, BANGALORE FOR THE OFFENCE P/U/S 408 AND 420 OF IPC.

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

ORDER

Heard the arguments of learned counsel for petitioner and learned High Court Government Pleader for respondent-State.

2. The allegations against the petitioner is that when he was working as Development Officer in the complainant's office, he has collected the amount from more than 600 members and did not deposit the amount to the tune of Rs.28,80,768/- for the period from 2015 to 2018. Hence, a complaint was lodged on 24.05.2018. Based on the said complaint, the police have registered the case in Crime No.158/2018.

3. Learned counsel for the petitioner has contended that the allegations made against this petitioner is false and frivolous and that at no point of

time, he has committed the above said offences and he neither directly nor indirectly involved in the above said case and a false case has been registered against him. During his tenure, he has discharged his part of work promptly and honestly without any black marks of his career. The allegation in the complaint is that the petitioner has misappropriated the money of the customers, which was collected by him but has not deposited to the company account and misused the same for his personal use. The said allegation is false and there are no materials to show that the petitioner is guilty of offences alleged against him. The petitioner is ready to obey the conditions that may be imposed by this Court and also contends that the offences against the petitioner is not punishable with death or imprisonment for life and he will be readily available even for further investigation. Hence, he may be enlarged on bail.

4. Per contra, learned High Court Government Pleader contends that the petitioner has indulged in misappropriation of amount of the general public and has collected the amount from 600 members during the period from 2015 to 2018. The Audit Report also discloses that he has misappropriated the amount to the tune of Rs.28,80,768/-. The investigation is yet to be completed. Hence, the petitioner is not entitled for bail.

5. After having heard the arguments of learned counsel for the petitioner and learned High Court Government Pleader, the point that arise for my consideration is:-

“Whether the petitioner has made out a ground under Section 439 of Cr.P.C., to enlarge him on bail for the offence punishable under Sections 408 and 420 of IPC?”

6. The contention of the learned counsel for the petitioner is that there is no documentary proof with regard to the misappropriation of amount to the tune of Rs.28,80,768/- and he has not involved in any collection of money from the general public. The petitioner is in judicial custody from 27.11.2018 and is ready to obey the conditions that may be imposed by this Court and co-operate for further investigation.

7. Learned counsel appearing for the petitioner has brought to my notice that in the remand application, the police has stated that his custody is not required and he may be remanded to judicial custody from 28.11.2018 to 12.12.2018. The petitioner did not dispute the very fact that he was working as Development Officer in the complainant-company and only denies the allegation made against him. The investigation is not yet completed and a serious allegation is made against him that he has

misappropriated the amount to the tune of Rs.28,80,768/- and the Audit Report also confirms that the amount was misappropriated for the period from 23.11.2015 to 30.03.2018. When the investigation is not yet completed, I am of the opinion that a serious allegation is made against this petitioner that he has indulged in misappropriating the amount of the general public to the extent of 600 members and when such being the case, during the pendency of the investigation, the petitioner is not entitled for bail. Hence, I do not find any force in the contention of the learned counsel for the petitioner to exercise discretion under Section 439 of Cr.P.C.

8. Having considered the nature of allegations and gravity of the offences, I pass the following:

ORDER

(a) The bail petition is ***rejected***.

(b) The petitioner is at liberty to approach the Sessions Court immediately, after the completion of the investigation.

**Sd/-
JUDGE**

VBS/KA