

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 31st DAY OF AUGUST, 2020

BEFORE

THE HON'BLE MR.JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 101010/2020.

Between:

Sanjeevarayudu.P S/o.Subbarayudu,
Age 54 years, Occ: Manager at TAPCMS Ltd,
(Taluk Agricultural Produce Co-operative
Marketing Society Ltd.,), Tal: Kampli,
Kampali Town, Dist: Ballari,
R/o.No.2, Muddanur,
Tal: Kampli, Dist: Ballari.

Petitioner

(By Shri. R.H.Angadi, advocate)

And

The State of Karnataka,
(Kampli Police Station, Dist: Ballari),
Represented by State Public Prosecutor,
High Court of Karnataka,
Dharwad Bench, at: Dharwad.

Respondent

(By Miss.Seema Shiva Naik, HCGP)

This criminal petition is filed under Section 438 of Cr.P.C. praying to kindly direct the jurisdiction police to enlarge the present petitioner who is arrayed as accused No.1 on bail in connection with in Kampli P.S. Crime No.72/2020, for the offences punishable under sections

406, 408, 409, 420 r/w. Section 34 of IPC pending on the file of ACJ and JMFC (S.D.) Hospet, in the event of his arrest by the said police.

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

ORDER

1. Miss. Seema Shiva Naik learned HCGP is directed to take notice for respondent state.
2. The petitioner/accused No.1 is before this court seeking for enlargement on anticipatory bail in the event of his arrest in Kampli Police Station Crime No.72/2020 for the offences punishable under sections 406, 408, 409, 420 pending on the file of Additional Senior Civil Judge and JMFC Hospeth, District Ballari.
3. The case of the prosecution is that, the Director of Kampli Agricultural Produce Co-operative marketing Society, had filed a complaint on 15/6/2020 alleging that the petitioner was the manager of the society and three other persons were working as CEO, clerk and

storekeeper for last so many years, were in charge of storing, fertilizers and pesticides in the godown of the society situated at Belagodhal Kampli road. On audit being conducted, in audit report in 2018-19, it was disclosed that there was a shortage of fertilizers and pesticides to the tune of Rs.2,50,78,874/- and said short fall was attributed to accused No.2 to 4 and in view thereof, society approached the Assistant Registrar of Co-Operative Society and after obtaining requisite permission, passed a resolution and present complaint was filed by the Director of the Society. It is further alleged that the materials belonging to the society which was for the benefit of farmer has been used for personal requirements of the accused and they have dealt with the same to the detriment of the farmers which amounts to breach of trust and cheating. The petitioner based on the above complaint apprehending his arrest is before this court seeking an anticipatory bail.

4. Sri.R.H.Angadi, learned counsel for the petitioner would submit that as per the audit report and earlier resolution which had been passed, all the allegations are against accused No.2 to 4 and there is no allegations made in so far as accused No.1 is concerned. He further submitted that the petitioner has been made part of the complaint and or the proceedings at a belated stage. Prima facie there is nothing to disclose the involvement of the petitioner in the alleged offences. Therefore seeks for enlargement on bail on any conditions that may be imposed by this court.
5. Per contra, Miss.Seema Shiva Naik, learned HCGP would submit that the petitioner/accused No.1 being the manager of the society was in charge of day today activities of the society and nothing could have happened without the manager knowing the above. A large quantity of pesticides to the extent of Rs.2,50,78,874/- is found missing over the last 2

years. Removal of the amount of the pesticides from the godown could not be alone without the knowledge of the petitioner. The petitioner is required for custodial interrogation to verify the details over last two years. Investigation being under progress. This is not a fit case for enlarging the petitioner on anticipatory bail. She further submitted that in the event of allowing the petition, the petitioner is likely to tamper with the evidence and or influence the witnesses, thereby resulting in miscarriage of justice. Hence, she submitted that the petition be dismissed.

6. Heard Sri.R.H.Angadi, learned counsel for the petitioner and Miss.Seema Shiva Naik, learned HCGP for the respondent state. Perused the papers.
- 7.** On perusal of the papers, it is seen that complaint in so far as Rs.2,50,78,874/- is towards pesticides. Admittedly the petitioner was of the society. It cannot

be said at this stage that there is no prima facie case made out against the petitioner. Since he being the manager, the petitioner ought to know going on in the godown, stock register pesticides available are which being the primary duties for the said manager. Show cause notice having been issued to the petitioner, the petitioner not having replied satisfactorily the complaint has been filed. In my opinion, it would required to be interrogated in custody and details ascertained. In view of the same, I find no merits in the matter. Accordingly, I pass the following;

ORDER

Petition is accordingly dismissed.

All the observation made above, are only for the purpose of consideration of the application for anticipatory bail and the same shall not in any manner

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influence the trial. The trial Court shall dispose the case on merits without being influenced by this order.

SD/-
JUDGE

PKK