

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 30TH DAY OF JULY, 2020

BEFORE

THE HON'BLE MR.JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO.100667 OF 2020
C/W. CRIMINAL PETITION NO.100666 OF 2020

In Crl.P.No.100667 of 2020:

Between:

1. Irappa Yallappa Ajjanakatti,
Age 40 years, Occ: Agriculture,
R/o.: Tavalageri, Tq.: Savadatti,
District Belagavi.
2. Shri Laxman Ramachandra Talawar,
Age 23 years, Occ: Agriculture,
R/o.: Bilakundi, Tq.: Gokak,
District Belagavi.

... Petitioners

(By Shri Harshawardhan M.Patil
& Shri M.H.Patil, Advocates)

And:

The State of Karnataka,
By Ramadurga Police Station,
Rep. By State Public Prosecutor,
High Court of Karnataka,
Dharwad Bench.

... Respondent

(By Miss Seema Shiva Naik, HCGP)

This criminal petition is filed under Section 438 of Cr.P.C. praying to enlarge the petitioners-accused Nos.2 and 3 on anticipatory bail in Ramdurga Police Station Crime No.54/2020 for the offences punishable under Sections 419, 420, 465, 468, 471 read with Section 34 of IPC.

In CrI.P.No.100666 of 2020:

Between:

Shri Prakash Pandappa Harijan,
Age 35 years, Occ: Agriculture,
R/o.: Tavalageri, Tq.: Savadatti,
District Belagavi.

... Petitioner

(By Shri Harshawardhan M.Patil
& Shri M.H.Patil, Advocates)

And:

The State of Karnataka,
By Ramadurga Police Station,
Rep. by State Public Prosecutor,
High Court of Karnataka,
Dharwad Bench.

... Respondent

(By Miss Seema Shiva Naik, HCGP)

This criminal petition is filed under Section 438 of Cr.P.C. praying to enlarge the petitioner-accused No.1 on anticipatory bail in Ramdurga Police Station Crime No.54/2020 for the offences punishable under Sections 419, 420, 465, 468, 471 read with Section 34 of IPC.

These petitions coming on for orders, this day, the Court made the following:

ORDER

1. The petitioners in both the above matters are before this Court seeking to be enlarged on anticipatory bail in the event of their arrest in Ramdurg P.S. Crime No.54 of 2020 for the offences punishable under Sections 419, 420, 465, 468, 471 read with Section 34 of IPC.
2. The petitioner in CrI.P.No.100666 of 2020 is accused No.1-borrower and the petitioners in CrI.P.No.100667 of 2020 are accused No.2-guarantor and accused No.3-subsequent purchaser.
3. The case of the prosecution is that one Iranna Shivaputrappa Badagi on behalf of Shriram Finance Company Limited had filed a complaint on 18.03.2020 before Ramdurg P.S. alleging that the petitioners had purchased the JCB bearing registration No. KA-24/M-4763 towards which he has obtained the loan from the complainant by

hypothecating the JCB. Accused No.2 stood guarantor for the repayment of the loan amount. It is alleged that accused Nos.1 and 2 colluding with each other created fake clearance certificate and documents and submitted to the RTO, Ramdurg, obtained encumbrance and sold the JCB to accused No.3, by doing so, the complainant has been cheated out of the payments due to them and huge amounts of money are still pending to be paid. The petitioners are before this Court apprehending their arrest in the said matters.

4. Shri Harshawardhan M.Patil, learned counsel for the petitioners in both matters contends that accused No.1 has made payments of the entire amount to the complainant towards which receipts have been issued by the complainant. He has produced the copies of the receipts along with a memo dated 29.07.2020. He further submits that the payments having been acknowledged, ledger statement

issued by the complainant would disclose that there are no amounts which are due and liable to pay. Therefore, he contends that the said complaint is misconceived and has been filed only to harass the petitioners. He further submits that all the aspects are documented, these documents are available with the complainant, there is no requirement of the custodial interrogation of the petitioners.

5. Be that as it may, in the event of any co-operation required of the petitioners, they would co-operate with the Investigating Officer, furnish all details sought for by the Investigating Officer and since evidence is in documentary form and there is no question of the petitioners tampering with the said evidences and/or influencing any witnesses. On these grounds, he contends that the petitioners ought to be enlarged on anticipatory bail in the event of their arrest.

6. Per contra, Ms. Seema Shiva Naik, learned HCGP would submit that there are serious dispute as regards the payment having been made by the accused. The accused have fabricated the records and it is therefore, required that they be interrogated in custody in order to ascertain the truth of the matter. She further expresses her apprehension that the petitioners may tamper with the documents, thus having adverse impact on the prosecution.
7. Heard the learned counsel for the petitioners and the learned HCGP for the respondent-State in both matters. Perused the papers.
8. Having perused the documents produced by Shri Harshawardhan M.Patil, learned counsel for the petitioners as regard the receipt said to be issued by the complainant and also having heard and considered the submissions made by him, I am of the considered opinion that the petitioners ought to

be enlarged on bail albeit by imposing stringent conditions so as to allay the apprehension of the learned HCGP. Hence, I pass the following:

ORDER

The anticipatory bail petitions filed under Section 438 of Cr.P.C., insofar as petitioners No.1 and 2 i.e., accused Nos.2 and 3 in CrI.P.No.100667 of 2020 and petitioner No.3 i.e., accused No.1 in CrI.P.No.100666 of 2020, are allowed. The petitioners in both petitions are ordered to be released on bail in the event of their arrest in Crime No.54/2020 of Ramdurga P.S., on the following conditions:

- i) Each of them shall furnish a personal bond for a sum of Rs.2,00,000/- (Rupees two Lakh Only) with two sureties for the likesum to the satisfaction of the said court.
- ii) They shall appear before the trial court regularly on the appointed dates;

- iii) They shall not tamper with the evidence or cause any threat to any of the prosecution witness/s in any manner.
- iv) They shall furnish the details of immovable properties owned by them to the jurisdictional police.
- v) In the event of violation of any of the above terms, the above order shall stand automatically cancelled.

The observation made above is only for the purpose of consideration of the application for anticipatory bail and the same shall not in any manner influence the trial. The trial Court shall dispose the case on merits without being influenced by this order.

SD/-
JUDGE

Vnp*