

IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH

DATED THIS THE 30<sup>th</sup> DAY OF DECEMBER 2020

BEFORE

THE HON'BLE Dr.JUSTICE H.B.PRABHAKARA SASTRY

CRIMINAL PETITION NO.101625/2020

BETWEEN:

ASHOK S/O HANAMANTHRAO KULKARNI  
AGE: 48 YEARS, OCC. ASST. TEACHER,  
R/O HPS, TARANALLI VILLAGE,  
TAL. SEDAM, DIST. KALABURAGI 585 222

... PETITIONER

(BY SRI. GIRISH A. YADWAD, ADV.)

AND:

STATE OF KARNATAKA  
REPRESENTED BY ITS PUBLIC PROSECUTOR,  
HIGH COURT BUILDING,DHARWAD,  
THROUGH PSI,  
BRUCEPET POLICE STATION, BALLARI,  
DIST. BALLARI -583102

.. RESPONDENT

(BY SRI. V.S. KALASURMATH, HCGP)

THIS CRIMINAL PETITION IS FILED U/SEC.438 OF CR.P.C., PRAYING TO DIRECT THE BRUCEPET POLICE STATION, BALLARI, TO RELEASE THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN CRIME NO.0162/2020 REGISTERED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 406, 409, 463, 464, 465, 468 AND 34 OF THE INDIAN PENAL CODE, 1860. BAIL APPLICATION IS FILED

U/SEC.438 OF CR.P.C. IN CRL. MISC. NO.997/2020 BEFORE THE IV ADDL. SESSIONS JUDGE, KALABURAGI, SITTING AT SEDAM, HAS BEEN REJECTED.

THIS CRIMINAL PETITION COMING ON FOR ORDERS THROUGH PHYSICAL HEARING/VIDEO CONFERENCING HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

Heard the submission of the learned counsel for the petitioner on office objections.

Perused the office objections. In view of the submission made by the learned counsel for the petitioner, the office objections stand over ruled.

Issue notice to the respondent. Learned High Court Government Pleader takes notice for the respondent and submits his oral objection to the petition.

Perused the petition.

Heard the arguments from both side.

2. The present petitioner who is accused No.2 in Crime No.0162/2020 of the first respondent police

station has filed this petition seeking the relief of anticipatory bail for the offence punishable under Sections 406, 409, 463, 464, 465, 468 read with Section 34 of the Indian Penal Code (hereinafter referred to as the 'IPC').

3. The allegation made against the present petitioner is that the present petitioner joined by accused No.1 Sri. Manjunath Kadegund has induced a teacher by name Smt. Sudhabai that he would secure her transfer to her desired place in which connection, for his expenses and to meet other contingencies, has periodically collected money from her and created a forged document of transfer and thus has committed the alleged offence.

4. Learned counsel for the petitioner in his argument submitted that, admittedly, the complainant is not the alleged victim or an aggrieved person but it is an hearsay complaint, as such, the very information said to

have been gathered by him is suspicious and cannot be accepted and acted upon. He also submits that the petitioner is a teacher and in case of his apprehension his reputation in the society and his professional circle would be lower down which cannot be repaired further. Learned counsel for the petitioner further submits that the proper co-operation of the petitioner for the investigation would be undertaken by the petitioner.

5. Learned High Court Government Pleader submits that the petitioner is a teacher and being a teacher, he faces a serious allegation, as such, he does not deserve to be enlarged on anticipatory bail. However, he fairly concedes that even without apprehension of the present petitioner also, the investigation into the matter can be proceeded and concluded.

6. A perusal of the materials placed before this Court would go to show that the petitioner claims

himself to be an Assistant Teacher in an Educational Institution and the alleged victim is also said to be an Assistant Teacher in Government High School, Taranalli. Admittedly, the said Assistant Teacher, who is shown to be the victim in the alleged offence is not the complainant in the case. The complainant is an incharge Block Educational Officer of Sedam Taluk. Even the complainant in his complaint has not stated that he has got the first hand information or has witnessed the alleged incident but has only stated that based upon the direction given to him by his superior, he contacted the alleged victim Smt. Sudhabai over telephone and gathered the information and proceeded to lodge the complaint. As such, the contention of the learned counsel for the petitioner that the said circumstance leads a primary doubt as to whether the alleged Assistant Teacher Smt. Sudhabai has been really aggrieved, requires a detailed investigation.

7. Further, even according to the respondent, the apprehension of the present petitioner who is said to be a Assistant teacher in a Government High School, is not required for the investigation purpose provided he cooperates fully with the Investigating Agency during the course of investigation.

8. Considering the nature of the avocation and the nature of the complaint, I am of the view that imposing reasonable conditions, the co-operation of the petitioner for the investigation can be ensured.

Accordingly, I proceed to pass the following order.

### **ORDER**

The Criminal Petition is allowed. In the event the petitioner is arrested by the Bruce Police Station, Ballari in Crime No.0162/2020 for the offences punishable under Sections 406, 409, 463, 464, 465 and 468 read with Section 34 of IPC he shall be enlarged on the relief of anticipatory bail subject to the conditions that:

- i) He shall execute a personal bond for a sum of Rs.50,000/- with two sureties for the like sum to the satisfaction of the enlarging authority.
- ii) He shall appear before the jurisdictional Investigating Officer within ten days from today.
- iii) He shall appear before the Investigating Officer between 9.00 am and 1.30 pm on every Saturday commencing from 02<sup>nd</sup> January 2021 and mark his attendance till the investigation is completed and charge sheet is filed.
- iv) The petitioner to give in writing about the change in his address, if any, to the investigating Officer as and when such change occurs and obtain acknowledgement in that regard.
- v) He shall not tamper the prosecution witnesses and documents in any manner.

vi)He shall appear before the Court on all the  
dates of hearing.

**Sd/-  
JUDGE**

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