

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 31ST DAY OF JANUARY 2020

BEFORE

THE HON'BLE MR. JUSTICE P.G.M.PATIL

CRIMINAL PETITION NO.102597/2019

BETWEEN

MANJUNATH S/O VEERAPPA HUNAGUDI,
AGED ABOUT: 50 YEARS,
OCC: BUSINESS, R/O: # 24, BLOCK NO.3,
KARATAGI - 3, TQ: KARATAGI,
DIST: KOPPAL.

... PETITIONER

(By SRI.VIJAY S. CHINIWAR, ADV.)

AND

THE STATE OF KARNATAKA,
REPRESENTED BY STATE PUBLIC
PROSECUTOR, HIGH COURT OF
KARNATAKA, BENCH AT DHARWAD.
BY ITS KARATAGI POLICE STATION
GANGAVATHI RURAL CIRCLE,
DIST: KOPPAL.

... RESPONDENT

(By SMT. SEEMA SHIVA NAIK, HCGP)

THIS CRIMINAL PETITION IS FILED U/S 438 OF CR.P.C. SEEKING TO GRANT ANTICIPATORY BAIL IN THE EVENT OF HIS ARREST IN THE P.S. CRIME NO.192/2019 (P.C. NO.63/2019) BY THE KARATAGI POLICE STATION REGISTERED FOR THE OFFENCES PUNISHABLE UNDER SECTION 379, 420, 406, 407, 408, 409, 107, 108, 115 R/W 34 OF IPC, PENDING ON THE FILE OF ADDL. CIVIL JUDGE (JR.DN.) & JMFC COURT, GANGAVATHI, KOPPAL DISTRICT ; BAIL APPLICATION IS FILED BY THE ADVOCATE FOR THE PETITIONER IN CRL. MISC. NO.632/2019 BEFORE THE DISTRICT AND SESSIONS JUDGE, AT KOPPAL, HAS BEEN REJECTED.

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

ORDER

This is an anticipatory bail petition filed under section 438 of Cr.P.C., seeking to enlarge the petitioner on bail, in the event of their arrest, in Crime No.192/2019 of Karatagi P.S., registered

for the offences punishable under sections 379, 420, 406, 407, 408, 409, 107, 108, 115 and 34 of IPC.

2. The case of the prosecution in brief is that, the complainant National Collateral Management Services Limited filed a private complaint before the JMFC, Gangavathi, against the petitioner for the aforesaid offences and the said complaint was referred to the respondent police for investigation, on the basis of which the case is registered by the respondent police against the petitioner for the aforesaid offences. The complainant has stated in the complaint that there is an agreement between the complainant company and State Bank of India. The bank has appointed the complainant as its collateral agency for taking quality and quantity of paddy stored until repayment of the loan by the borrowers. It is alleged that accused No.1 approached the State

Bank of India, Karatagi branch for financial assistance and pledged stock of 650 bags of paddy stored in the borrowers godown at Karatagi. The complainant visited the godown and inspected and found that there is stock of 650 bags of paddy. Thereafter the complainant issued warehouse receipt dated 24.5.2018. It is further alleged that during the godown visit by the officials of the complainant, they noticed that the pledged stock of 560 bags were illegally lifted by the borrower accused No.1 without approval of the complainant and the bank. Accused No.2 was the in charge of the godown. Therefore both the accused have committed the alleged offences.

3. The petitioner who is arraigned as accused No.2 in the complaint have stated that there is a delay of more than 49 days in filing the complaint. The complaint does not disclose the amount of loan borrowed by petitioner. It is

further stated that as on the date of lifting the bags, there were no dues by the petitioner and he had cleared the dues. The petitioner is the permanent resident of the place shown in the cause title of the petition having movable and immovable properties and residing with their family members. The alleged offences are not punishable with death or imprisonment for life. He is ready and willing to abide by the conditions, which may be imposed by the Court and also to furnish adequate surety to the satisfaction of the Court.

4. Heard the learned counsel for the petitioner and the learned High Court Government Pleader.

5. As can be seen from the allegations in the complaint, the complainant company is a collateral agency for taking quality and quantity of paddy stored in pursuance of the agreement

between the complainant and the State Bank of India, Karatagi branch. Nowhere in the complaint it is alleged that the petitioner has borrowed the particular sum of money from the bank and it was not repaid. Unless such a case is made out, there was no impediment for the petitioner for lifting paddy belonging to him from the godown.

6. The complainant has also not stated as to the contractual obligations between itself and the accused persons. Even if there is a contractual obligation between them, for breach of the contractual obligation it cannot be held that the alleged offences are made out against the petitioner. There is no grievance of the State Bank of India, Karatagi branch, from whom the petitioner had borrowed loan and that it was not repaid and without consent of the bank pledged paddy bags were removed illegally. It is not disputed that the petitioner is the permanent

resident of Karatagi in Koppal district and having movable and immovable properties. Therefore there is no chance of their absconding. The custodial interrogation of the petitioner is not required in the case.

7. Under these circumstances this Court is of the considered opinion that the petitioner may be enlarged on anticipatory bail by imposing necessary conditions, to see that he shall not abscond, shall not tamper with the prosecution witnesses and shall co-operate in the investigation. Accordingly this Court proceed to pass the following:

ORDER

The anticipatory bail petition filed under section 438 of Cr.P.C. of is allowed. The petitioner is ordered to be released on bail in the event of their arrest in Crime No.192/2019 of Karatagi P.S., on the following conditions.

i) The petitioner shall appear and surrender themselves before the investigating officer within 10 days from the date of receipt of certified copy of this order and shall furnish a personal bond for a sum of Rs.50,000/- each, with a surety for the like sum to the satisfaction of the investigating officer.

ii) The petitioner shall not threaten or tamper with the prosecution witnesses in any manner.

iii) The petitioner shall co-operate with the investigating officer to complete the investigation and shall also mark their attendance before the SHO of Karatagi Police Station on every 2nd and 4th Sunday of the month between 10.00 a.m. and 5.00 p.m., till the final report is filed.

iv) The petitioner shall not leave the jurisdiction of the trial Court without prior permission.

Sd/-
JUDGE

Vmb