

IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH

DATED THIS THE 30<sup>th</sup> DAY OF JUNE 2022

BEFORE

THE HON'BLE MR.JUSTICE K. NATARAJAN

CRIMINAL PETITION NO.101808/2022

**BETWEEN:**

ASHWIN S/O SHANTILAL JAIN  
AGE. 42 YRS, OCCU. BUSINESS,  
R/O. PADIV, TALUK AND DISTRICT SHIROHI,  
RAJASTHAN- 307 001.  
CURRENTLY RESIDING AT  
GANDHI NAGAR, CHALLEKERE,  
DISTRICT CHITRADURGA

.. PETITIONER

(BY SRI. AKSHAYA ANIL KATTI, ADVOCATE)

**AND:**

THE STATE OF KARNATAKA  
THROUGH INSPECTOR, CHIKODI POLICE STATION  
REPTD, BY STATE PUBLIC PROSECUTOR,  
SPP OFFICE, HIGH COURT OF KARNATAKA  
DHARWAD BENCH, AT. DHARWAD.

.. RESPONDENT

(BY SMT. GIRIJA S. HIREMATH, HCGP.)

THIS CRIMINAL PETITION IS FILED U/S 439 OF CR.PC., SEEKING  
TO ALLOW THIS CRIMINAL PETITION AND PASS AN ORDER TO RELEASE  
THE PETITIONER (ACCUSED NO.2) ON BAIL U/SECTION 439 OF CR.P.C.,  
IN CHIKODI P.S.CRIME NO. 216/2021 ON THE FILE OF THE PRINCIPAL

CIVIL JUDGE AND JMFC CHIKODI FOR THE OFFENCES PUNISHABLE UNDER SECTION 328, 394 R/W SECTION 120(B) OF IPC.

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

**ORDER**

Learned High Court Government Pleader takes notice for the respondent/State.

This petition is filed by the petitioner/accused No.2 under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.' for brevity) for granting bail in Crime No.216/2021 registered by the Chikkodi Police Station for the offence punishable under Sections 328, 394 and 120B of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC' for brevity).

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

3. The case of the prosecution is that, on the complaint of one Annu Singh, the police registered a case wherein it is alleged that the complainant is working as a Manager in R.Sai Logistic India

Private Limited at Gwalior. Their driver was returning from Tamilnadu after loading the tyres worth Rs.64,00,000/- in their company's truck bearing No.HR-55 AH-7912, subsequently, they got information that their company's truck was parked in Chikkodi, Belagavi district, Karnataka State, and the tyres were missing. Initially, the case was registered under Section 379 of IPC. Thereafter, during investigation, it has come to know that accused Nos.3 and 4 stated to have given some sleeping tablets to the driver of the vehicle when he has stopped the truck for drinking tea and when he became unconscious, accused Nos.3 and 4 took the lorry and unloaded in the godown belonging to the petitioner. Subsequent to arrest, the police seized the tyres. Investigation is completed and charge sheet has been filed. His bail petition came to be rejected by the learned Sessions Judge. Hence, the petitioner is before this Court seeking grant of bail.

4. Having heard the learned counsel, perused the records.

5. On perusal of the records, it is seen, the petitioner is in custody for 9 months. The co-accused i.e. accused Nos.1 and 3 are already granted bail by this Court in Criminal Petition

No.100204/2022 and 101086/2022 dated 04.03.2022 and 08.06.2022 respectively. The allegations against this petitioner is lesser gravity as against accused Nos.1 and 3 who have been already granted bail. Except providing space to accused Nos.3 and 4 for unloading the tyres, there are no specific allegations against the petitioner. Investigation is completed and charge sheet has been filed. When the co-accused are granted bail, this petitioner is also entitled for grant of bail on the ground of parity.

Accordingly, the criminal petition is allowed. The trial Court is directed to release the petitioner/accused No.2 on bail in Crime No.216/2021 of Chikkodi Police Station subject to the following conditions:

- i. The petitioner shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees two lakh only) with two sureties for the likesum, out of which one surety shall be from the relative of his native and the other surety shall be of a local, to the satisfaction of the trial Court.
- ii. The petitioner shall not tamper the prosecution witnesses directly or indirectly.
- iii. The petitioner shall not indulge in similar offence.

- iv. The petitioner shall appear before the concerned police for marking attendance once in a month i.e. on 2<sup>nd</sup> day of every month until completion of trial.

**Sd/-  
JUDGE**

kmv