

(2023) 04 KAR CK 0025
In the Karnataka High Court
Case No : Criminal Petition No. 3266 Of 2023

Anusuya H K

APPELLANT

Vs

State By Lokayukta Police, Chikkamagaluru-577101.
(Represented By Special Prosecutor For Karnataka
Lokayuktha, High Court Building, Bengaluru-560001)

RESPONDENT

Date of Decision : 21-04-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 164, 439
Prevention Of Corruption Act, 1988 — Section 7(a)

Citation : (2023) 04 KAR CK 0025

Hon'ble Judges : V Srishananda, J

Bench : Single Bench

Advocate : Hegde Shankar Purander, Prakash R Garasangi

Final Decision : Allowed

Judgement

V Srishananda, J

1. Heard Sri. Hegde Shankar Purander, learned counsel for the petitioner and Sri. Prakash R. Garasangi, for Sri B.B. Patil, learned counsel for the respondent State-Lokayuktha, Chikkamagaluru and perused the records.

2. This petition is filed under Section 439 of Cr.P.C. with the following prayer:

"WHEREFORE, in the light of the reasons stated above, it is humbly prayed that this Hon'ble Court may graciously be pleased to enlarge the petitioner on bail in Crime No.6/2023 for the offence punishable under Sections 7(a) of P.C. Act 1988, (Amendment Act-2018) now pending on the file of Principal District and Sessions Judge and Special Judge Chikkamagaluru, on any reasonable condition/s that this Hon'ble Court deems fit, just and expedient under the peculiar circumstances of this case, in the interest of justice and equity."

3. The brief facts of the case are as under:

Upon the complaint lodged by Sri Manjunatha T.A. S/o. Ajjegowda, Lokayuktha Police, Chikkamagaluru, have registered a case in Crime No.6/2023 on 30.03.2023 for the offence punishable under Section 7(a) of the Prevention of Corruption Act, 1988 (Amendment Act, 2018) (hereinafter referred to as 'PC Act' for short).

4. The petitioner is the accused in the said Crime. The gist of the complaint averments reveal that the complainant was selling the Ragi at APMC yard as per the policy of the Government, by registering his name with the authority. When he met the accused/petitioner on 14.03.2023 for price, she demanded to give Rs.30/- per bag as bribe to sanction support price. The complainant was not willing to give bribe, he brought it to the notice of the Lokayuktha police on 30.03.2023.

5. The police after registering the case, voice recorded was handed over to him. When the complainant met the accordingly, on 30.03.2023 in the APMC Yard, the conversation taken place between the accused and the complainant was recorded. Ultimately, she reduced the amount to Rs.25/- per bag. There were totally 362 bags of Ragi. It would come to Rs.9,050/- and that she made a round figure of Rs.9,000/-. The complainant paid Rs.4,000/-, which was trapped and recovered the said amount from her. Thereafter, on the same day, after receipt of the complaint, the respondent-police registered a case in Crime No.6/2023 for the offence punishable under Section 7(a) of the PC Act, and called two Government officials as panchas, given details of the case and then drew entrustment panchanama. The Investigation Officer and the panch witnesses have enquired the complainant about the contents of the complaint and after investigation arrested the accused by conducting trap mahazar and since then she has been in judicial custody.

6. The attempt made by the petitioner to obtain an order of grant of bail before the Principal District and Sessions Judge and Special Judge, Chikkamagaluru, was turned down by order dated 5.4.2023 in Crime No.6/2023. Thereafter, the petitioner is before this Court.

7. Reiterating the grounds urged in the bail petition Sri. Hegde Shankar Purander, learned counsel for the petitioner vehemently contended that the matter does not require a custodial investigation nor in the present case the custodial trial is warranted inasmuch as the tainted currency has already been seized and colour test also stood positive and necessary papers are already seized from the hands of the petitioner and there remains nothing to be seized from the custody of the petitioner. He also pointed out that the apprehension of the prosecution can be met with by imposing suitable and stringent conditions and therefore, the petitioner be enlarged on bail.

8. Per contra, Sri. Prakash R. Garasangi, learned counsel for the respondent vehemently opposed bail grounds by contending that if the accused is granted bail, it would send a wrong signal to the Society at large and also it encourages

the perpetrators of the similar nature and sought for rejection of the petition. He further contended that if the petitioner is enlarged on bail, she may tamper the prosecution witnesses. Therefore, her bail request is to be rejected.

9. In the light of the rival contentions of the parties, this Court perused the materials on record meticulously.

10. On such perusal of the materials on record, it is seen that the accused/petitioner was a registered seller of Ragi at APMC Yard as per the policy of the Government and she was demanding Rs.30/- as bribe per bag. The complainant was having 362 bags of Ragi to sell and the accused/petitioner is in the habit of collecting bribe in a sum of Rs.30/- per bag, which comes to Rs.9,050 and she reduced it to Rs.9,000/-.

11. It is further seen from the records that the complainant being not interested in parting with the bribe amount, lodged a complaint before the Lokayuktha Police and after recording the conversation between the complainant and the accused/petitioner, a Trap was laid, apprehended the accused/petitioner recovered the money and remanded her to judicial custody. The tainted currency to the tune of Rs.4,000/-has already been recovered from the accused and colour test stood positive.

12. The explanation offered by the petitioner is taken on record. The files and papers pertaining to the complaint are seized. Therefore, the apprehension of the prosecution that the petitioner may tamper with the prosecution witnesses stands quelled to a greater extent.

13. If the respondent - Lokayuktha is of the opinion that the panch witnesses may turn hostile to the case of the prosecution at the behest of the petitioner, it is always open for the prosecution to get the statement of the panch witnesses recorded under Section 164 of Cr.P.C. pending investigation of the matter.

14. Further, since the cash and relevant documents were seized, this Court does not find any real and compelling reasons to continue the accused petitioner in judicial custody any longer nor it is a case for custodial trial as is rightly contended by the learned counsel for the petitioner.

15. The other apprehension of the prosecution can be met with by imposing stringent and suitable conditions. Accordingly, this Court passes the following:

ORDER

The Criminal Petition is allowed subject to the following conditions:

(1) The Petitioner shall be enlarged on bail on executing a personal bond in a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the likesum to the satisfaction of the trial Court.

(2) The Petitioner shall not directly or indirectly tamper the prosecution witnesses or hamper the investigation process in any manner.

(3) The Petitioner shall co-operate with the investigation.

(4) The Petitioner shall attend the Court regularly.

(5) Petitioner shall not leave the jurisdiction of Chikkamagaluru District without prior permission.

If any of the above conditions are violated, the prosecution is at liberty to seek for cancellation of bail order.