(2014) 09 KAR CK 0032

In the Karnataka High Court

Case No : Criminal Petition No. 3957/2014

L.J. Hamsaveni	APPELLANT
Vs	
State of Karnataka	RESPONDENT

Date of Decision : 10-09-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 109, 120B, 420, 465, 466
Prevention of Corruption Act, 1988 — Section 13(1)(d)(ii)

Citation : (2014) 09 KAR CK 0032

Hon'ble Judges : Budihal R.B., J

Bench : Single Bench

Advocate : Ravi B. Naik Sen for Vijetha R. Naik, Advocate for the Appellant; Venkatesh P. Dalwai, Spl PP, Advocate for the Respondent

Final Decision : Allowed

Judgement

Budihal R.B, J.—This petition is filed by the petitioner/accused No. 4 u/s 438 of Cr.P.C. seeking anticipatory bail, to direct the respondent-police to release the petitioner on bail in the event of her arrest for the offences punishable under Sections 13(1)(d)(ii) and (iii) of Prevention of Corruption Act, 1988, and under Sections 465, 466, 467, 468, 471, 472, 473, 474, 420, 109 read with Section 120B of IPC registered in respondent police station Crime No. 6/2014.

2. Heard the arguments of the learned senior counsel appearing for the petitioner/accused and also the learned Spl. Public Prosecutor appearing for the respondent-Lokayukta.

3. Learned senior counsel for the petitioner during the course of his arguments submitted that petitioner is working as District Registrar, Department of Stamps and Registration, Mysore Division. He has submitted that as per the case of the prosecution in the complaint the gift deed is of the year 1961 said to have been executed by then Mysore Maharaja in favour of accused No. 1/Sundar in respect of the property and subsequently, in the year 2013 the confirmation deed was

presented for registration. Learned senior counsel has submitted that before the registration of the said property, it was referred to the petitioner to assess the value of the said property and also the stamp duty to be paid for the registration of the said property. Petitioner has visited the spot, after seeing the property and considering the market value, valued it as Rs. 8,50,00,000/- and also gave the opinion that stamp duty of Rs. 47,59,800/- is to be paid on the said property for registration. He has further submitted that petitioner being the District Registrar. She is not concerned with the validity of the said confirmation deed. Even the Sub-registrar, registering the property when it is presented for execution, has no other option but duty bound to register the said document. Learned senior counsel has submitted that if, the document is said to be a false and concocted document then it is the executant as well as the witnesses of the said document are held responsible. Petitioner has done her duty by furnishing her opinion. But the prosecution has made the false allegations that she connived with other accused and got registered the confirmation deed and thereby committed the alleged offence.

4. In this connection, learned senior counsel for the petitioner has relied upon the decision reported in ILR 1990 KAR 3740 and submitted that on the basis of the said decision even the circular was also issued by the IGR and Commissioner of Stamps, Bangalore dated 03.07.1999. Hence, learned senior counsel has submitted that petitioner has not committed any offence as urged by the prosecution. She is a woman and she is ready to abide by any conditions to be imposed by this Court. He has also submitted that accused No. 3, the Sub-registrar has been granted bail by the order of this Court. Hence, petition may be allowed and anticipatory bail may be granted in favour of the petitioner.

5. As against this, the learned Spl. PP for the respondent-Lokayukta, during the course of his arguments submitted that the petitioner is absconding since three months and several notices were issued instead of that she has not cooperated with the Investigating Machinery. Even in her absence to appear before the Court, the Investigating Officer has filed the split charge sheet in the matter. Hence, when petitioner has not cooperated with the Investigating Officer for investigation of the matter no sympathy is to be shown on the petitioner as woman. He has also submitted that the Investigating Officer has to interrogate the petitioner and he has to collect the incriminating materials from her.

6. It is the contention of the learned Spl. PP that when the document was referred to the petitioner for valuation, she could have enquired about the validity of the said document before giving her opinion as to the valuation and stamp duty. Hence, it is his submission that all the accused persons in this case formed the criminal conspiracy to knock off the property, which was worth more than Rs. 30 Crores and thereby committed the alleged offence. Hence, he has submitted that petitioner is not entitled to be granted with anticipatory bail.

7. I have perused the averments made in the bail petition, FIR, complaint and other materials placed on record. Even according to the complaint averments, it

is accused No. 1/Sundar along with other two persons submitted the confirmation deed for registration and accused No. 1 is the beneficiary as the alleged gift deed is in his favour. But so far as the petitioner is concerned the materials show that when the document was referred to the petitioner seeking her opinion about the valuation of the property and also the stamp duty to be collected on the said document, the opinion has been furnished by the petitioner regarding the valuation as well as the stamp duty to be collected on the said document.

8. Looking to the decision and the circular relied upon by the learned senior counsel, so far as registering authority is concerned, whenever the document is presented for registration and its execution is admitted, the registering authority cannot question the validity of the said document and they are duty bound to register the said document. But in the case on hand, it is the contention of the petitioner and other accused persons that when the document was presented for registration then the Sub-registrar took the document to Maharaja of Mysore, as he was not able to come before the registering authority and after getting the approval regarding the execution of the said document, his signature as well as thumb impression has been obtained on the said document and there are two independent witnesses have also signed on the said document. It is also the case of the accused persons that during the course of investigation neither those two independent witnesses were interrogated nor their statements were recorded.

9. Looking to these materials on record and so far as the role of the petitioner in the transaction is furnishing the opinion regarding the value of the property and the stamp duty to be collected on it and the petitioner has furnished her opinion accordingly. In the bail petition, petitioner has urged that she has not committed any alleged offence, she is innocent and false case has been registered against her and she has undertaken that she is ready to abide by any conditions to be imposed by this Court. Therefore, looking to these materials on record, I am of the opinion that by imposing reasonable conditions petitioner can be granted with anticipatory bail.

10. Accordingly, petition is allowed. The respondent-Police is directed to enlarge the petitioner on bail in the event of her arrest for the alleged offence punishable under Sections 13(1)(d)(ii) and (iii) of Prevention of Corruption Act, 1988, and under Sections 465, 466, 467, 468, 471, 472, 473, 474, 420, 109 read with Section 120B of IPC registered in respondent police station Crime No. 6/2014, subject to the following conditions:

i. Petitioner has to execute a personal bond for Rs. 50,000/- and has to furnish one solvent surety for the likesum to the satisfaction of the concerned Court.

ii. Petitioner shall not tamper with any of the prosecution witnesses, directly or indirectly.

iii. Petitioner has to appear before the Investigating Officer once in every fortnight, till the investigation as against her is will be completed and filing of separate charge sheet.

iv. The petitioner has to appear before the concerned Court within 30 days from the date of this order and to execute the personal bond and the surety bond.

