

(2018) 02 KAR CK 0033
In the Karnataka High Court
Case No : 114 of 2018

M. Chandrappa?S/o Singappa Vs State by Madanayakanahalli?Police Station,

Date of Decision : 01-02-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 438](#) - Direction for grant of bail to person apprehending arrest
[Indian Penal Code, 1860](#), [Section 409](#),
[Section](#)

Citation : (2018) 02 KAR CK 0033

Hon'ble Judges : Budihal R.B.

Bench : Single Bench

Advocate : Lokesh S.G, K. Nageshwarappa

Final Decision : Allowed

Judgement

1. This petition is filed by the petitioner/accused under Section 438 of Cr.P.C. seeking anticipatory bail, to direct the respondent-police to release the petitioner/accused on bail in the event of his arrest for the offences punishable under Sections 406, 408 and 409 of IPC read with under Section 43(A) of Karnataka Grama Swaraj and Panchayath Raj Act 1993, registered in respondent police station Crime No.561/2017.
2. Heard the arguments of the learned counsel appearing for the petitioner/accused No.2 and also the learned High Court Government Pleader appearing for the respondent-State.
3. Learned counsel appearing for the petitioner during the course of hearing of the petition, made submission referring to the documents that there is no such misappropriation of public fund by the present petitioner. He submitted that he was In charge PDO for a period of six months and during that period he has prepared the action plan as per the Government Circular in

respect to attend the said work. Drawing the attention of the court, he made submission that action plans were approved by the Executive Officer, President of Grama Panchayath and also the Panchayath Development, all the three members and their signatures to the said documents.

4. Therefore, it is his contention when the action plan has been already approved in the Panchayath by the responsible officers like Executive Officer and the President of the Panchayath, now making allegations that he has misappropriated funds of the said Grama Panchayath is without any basis. Hence, it is the contention that it is only because of the political motive and the President belongs to the Congress party and cannot be removed for a period of five years, the complaint came to be filed with a false implication. Hence, he submitted that by imposing reasonable conditions, the petitioner may be enlarged on bail.

5. He has also drawn the attention of this Court to page 35 regarding Chief account Officer report referring to the same. So far as the first matter is concerned he made the submission that it is the opinion of the Chief Account Officer himself that there is no material to say that payments were made two times for the same work. Also he made submission that there is no substance or truth in the allegation made as against the present petitioner and he has undertaken to abide by any conditions to be imposed by this Court.

6. Per contra, learned High Court Government Pleader, during the course of his arguments has submitted that it is the public funds, there is allegation that he has misappropriated public money and that the matter is under investigation. Therefore, petitioner is not entitled to be granted for the bail.

7. I have perused the grounds urged in the bail petition, FIR, complaint and other materials placed on record.

8. I have also perused the order of this Court at Bengaluru bench, wherein accused No.1 filed Writ Petition challenging the initiation of the criminal proceedings in Writ Petition No.55232/2017 and made submission that the Court had passed the order that ""No precipitative action be taken against the petitioner without the specific leave of this Court."" He produced the copy of the said order dated 14/12/2017.

9. Therefore, perusing the materials and the documents produced, as it is

submitted that the action plans were approved by all the members such as Executive Officer, PDO and the President of the Gram Panchayath, petitioner has contended that he is innocent and not committed the alleged offence and he has undertaken to abide by any conditions to be imposed by this Court. The alleged offences are triable by the Magistrate court and are not exclusively punishable with death or imprisonment for life. Hence, I am of the opinion that by imposing reasonable conditions, petitioner can be granted with anticipatory bail.

Accordingly, petition is allowed. The respondent- Police is directed to enlarge the present petitioner on bail in the event of his arrest for the alleged offence punishable under Sections 406, 408 and 409 of IPC and Section 43 (A) of Karnataka Grama Swaraj and Panchayath Raj Act 1993, registered in respondent police station in Crime No.561/2017, subject to the following conditions:

- i. Petitioner shall execute a personal bond for Rs.50,000/- and shall furnish one surety for the likesum to the satisfaction of the arresting authority.
- ii. Petitioner shall not tamper with any of the prosecution witnesses, directly or indirectly.
- iii. Petitioner has to make himself available before the Investigating Officer for interrogation, as and when called for and to cooperate with the further investigation.
- 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.