

(2023) 11 KAR CK 0025
In the Karnataka High Court
Case No : Criminal Petition No. 4831 Of 2023

Madesh R

APPELLANT

Vs

State By Azadnagar Police Station Davanagere Rep By Public
Prosecutor High Court Complex Bangalore Pin 560001

RESPONDENT

Date of Decision : 16-11-2023

Acts Referred:

Indian Penal Code, 1860 — Section 406, 408, 420
Code Of Criminal Procedure, 1973 — Section 438

Citation : (2023) 11 KAR CK 0025

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Rangaswamy M T, Airam Siddi

Final Decision : Allowed

Judgement

S Vishwajith Shetty, J

1. Accused No.3 in Crime No.14/2015 registered by Azad Nagar Police Station, Davanagere for the offences punishable under Sections 406, 408, 420 of Indian Penal Code (for short hereinafter referred to as 'IPC') is before this Court under Section 438 of Cr.P.C., seeking anticipatory bail.

2. Heard the learned counsel for the parties.

3. On the basis of the complaint lodged by R.Thippesh S/o late Rangappa dated 12.02.2015, FIR in Cr.No.14/2015 was registered by Azadnagar police station for the aforesaid offences against the petitioner and three others. The petitioner is arrayed as accused No.3 in the FIR.

4. It is the case of the prosecution that between 19.02.2009 to 12.02.2015, the accused persons started a Private Finance Company under the name and style as "Achievers Agree India" in a Kavalahalli building at Davanagere. The complainant was induced to invest money in the Company with an assurance that he would be getting high returns for his investment and the accused persons had also offered

to pay commission, if he introduces other persons to the Company for the purpose of investment. Accordingly, the complainant had initially invested Rs.1,00,000/- in the Company and he had also introduced his friends to the Company who have also invested money in the Company. According to the complainant, totally, a sum of Rs.13,00,00,000/- was invested in the Company. Subsequently, the Company has failed to keep up the promise and the assured returns were not given to the investors nor they were given the Commission as assured by the Company. It is in this background, the complainant had approached the Police and lodged complaint which had resulted in registering the F.I.R. in Crime No.14/2015 by the Azadnagar police station. Apprehending arrest in the said case, the petitioner had filed CrI. Mis. No.1076/2021 before the Court of I Additional District and Sessions Judge, Davanagere which was rejected on 15.12.2021. Therefore, the petitioner is before this Court.

5. Learned counsel for the petitioner submits that accused No.2 as against whom the similar allegations are found in the complaint and charge sheet, has been granted anticipatory bail by this Court in CrI.P.No.6627/2019. The petitioner herein along with accused No.2 had approached this Court in CrI.P.No.6627/2019 but the same was dismissed as not pressed as against the petitioner herein based on wrong communication by the learned counsel who was appearing for the petitioners in CrI.P.No.6627/2019. Therefore, he prays to allow the petition.

6. Per contra, the learned HCGP has opposed the bail application.

7. The material on record would go to show that the petitioner had earlier approached this Court in CrI.P.No.6627/2019 under Section 438 of Cr.P.C., along with accused No.2-R.Narayanappa. The said petition was dismissed as not pressed as against the petitioner herein based on the submission made by the learned Advocate who had appeared in the said case, on the ground that the petitioner was apprehended during the pendency of the said petition. It is the contention of the petitioner that he was not aware of the dismissal of the earlier petition as against him. Only after issuing non bailable warrant against him by the trial Court, on verification, he came to know that the petition was dismissed as not pressed insofar as he is concerned. The order sheet in C.C.No.968/2016 would reflect that all the other accused persons have been enlarged on bail. Accused No.2 as against whom similar allegations are found in the complaint as well as in the charge sheet, has been granted anticipatory bail by this Court in CrI.P.No.6627/2019 which was disposed of on 03.11.2020. Charge sheet in the present case was filed on 24.01.2017. The allegations in the charge sheet as against the petitioner and the accused No.2 are identical. The trial Court has now issued NBW against the petitioner and therefore, he is before this Court apprehending arrest in the case.

8. Considering the fact that accused No.2 has been already granted anticipatory bail by this Court in CrI.P.No.6627/2019 and also since the allegations against the petitioner and accused No.2 are identical, I am of the view that the petitioner has made out a prima facie case for grant of anticipatory bail. Accordingly, the

following:

ORDER

The Criminal Petition is allowed.

The petitioner shall be released in the event of his arrest in Crime No.14/2015 registered by Azad Nagar police station, Davangere for the offence punishable under Sections 406, 408, 20 of IPC, subject to the following conditions:

- i. Petitioner shall appear before the Investigation Officer within a period of one week from the date of receipt of a copy of the order and shall execute a personal bond in a sum of Rs.50,000/- [Rupees fifty thousand only] with a likesum surety.
- ii. He shall cooperate with the investigation and shall not tamper with the prosecution witnesses in any manner.
- iii. He shall furnish his residential address/contact number and shall inform the Investigating Officer/Court regarding change in the address/contact number, if any.
- iv. He shall be regular in attending the Court proceedings.