

(2023) 12 KAR CK 0001
In the Karnataka High Court
Case No : Criminal Petition No. 11863 Of 2023

Shyalashri

APPELLANT

Vs

State By Police Inspector Karnataka Lokayuktha Davanagere,
Represented By Spl. Public Prosecutor High Court Of
Karnataka Bengaluru ? 560066

RESPONDENT

Date of Decision : 01-12-2023

Acts Referred:

Prevention Of Corruption Act, 1988 (Amended Act, 2008) — Section 7(a), 7(b), 12
Code Of Criminal Procedure, 1973 — Section 439

Citation : (2023) 12 KAR CK 0001

Hon'ble Judges : S Vishwajith Shetty, J

Bench : Single Bench

Advocate : Rakshith K.S, K. Prasanna Shetty

Final Decision : Allowed

Judgement

S Vishwajith Shetty, J

1. Accused No.2, in Crime No.16/2023 registered by Lokayukta Police Station, Davanagere, for the offences punishable under Sections 7(a), 7(b) and 12 of the Prevention of Corruption Act, 1988 (Amended Act, 2008) (" the P.C.Act" for short), is before this Court seeking regular bail under Section 439 Cr.P.C.

2. Heard the learned counsel for the parties.

3. The complainant Sri D. G. Raghunatha, S/o late D.Gopalarao, had lodged a complaint dated 13.10.2023 before the Police Inspector, Lokayuktha, Davanagere alleging that he had approached accused No.4/Inspector of Excise for the purpose of availing C.L.-7 Bar License in his property known as DGR Amusement Park, near 2nd Railway Gate, Amaravathi, Harihara. For the purpose of sanctioning of C.L.-7 bar license, accused Nos.4 and 5 allegedly informed him that he may have to spend about Rs.60 lakhs and the complainant allegedly informed that he was ready to bare the expenditure, but asked them to reduce

the amount. Subsequently, accused Nos.4 and 5 also had visited the complainant's amusement park on 16.08.2023 and thereafter, the complainant had made an application in the requisite form on 22.08.2023 for the purpose of sanction of C.L.-7 License.

4. On 15.09.2023, when the complainant approached accused No.4 in her office, she had demanded payment of bribe amount. The same was recorded by him in his mobile phone on 15.09.2023. He had met accused No.2, who had demanded a sum of Rs.15,000/- as loan from him and the same was paid by him to accused No.2 through Phonepay. On 26.09.2023, when the complainant went to the Range Office, Excise Department at Harihara, accused No.2 allegedly demanded further amount of Rs.15 lakhs from him. Accused No.2 allegedly also had given a note to the complainant as to what is the amount that is required to be paid by him to the officials in the Department. The conversation between accused No.2 and the complainant was also recorded by him.

5. On 30.09.2023, he again had met accused No.4 and had spoken to her with regard to the payment of bribe and even the said conversation was recorded by him in his mobile. On 07.10.2023, he allegedly visited the office of accused No.5 and spoke to her regarding payments to be made by him and the conversation between accused No.5 and complainant was also recorded. On 03.10.2023, the complainant allegedly met accused No.1 and on the said date, accused No.1 visited DGR Amusement Park and held spot inspection. Subsequently, on 11.10.2023, when the complainant met accused No.1 and enquired as to the payment that was required to be made to him, he was informed by accused No.1 that he will speak to him about the same subsequently. Even this conversation was recorded by the complainant in his mobile phone. Subsequently, on 12.10.2023, he had met accused No.5 and after negotiation, the payment of bribe was reduced to Rs.25 lakhs and he was instructed to pay the amount to accused No.3 - Ashok. Since the complainant did not intend to pay the bribe amount to the accused persons, he has approached the Lokayuktha Police and lodged a complaint based on which FIR in Crime No.16/2023 was registered against accused Nos.1 to 5. The petitioner herein is arraigned as accused No.2 in the FIR. On 13.10.2023, the Lokayukta Police had successfully laid trap and accused No.3 was caught red handed after he had received bribe amount of Rs.3.00 lakh from the complainant. The said amount was seized and subjected to panchanama and hands of accused No.3 was subjected to chemical examination. Subsequently, the petitioner who was arraigned as accused No.2 in the FIR was arrested and produced before the jurisdictional Court and remanded to judicial custody. Her bail application filed before the Trial Court in Crime No.16/2023 was rejected on 31.10.2023. Therefore, she is before this Court.

6. Learned counsel for the petitioner reiterating the grounds urged in the petition submits that the petitioner, who is a pregnant lady in custody from 13.10.2023 onwards. Major portion of the investigation is completed and all other accused persons have been granted bail. Accordingly, he prays to allow the petition.

7. Per contra, learned counsel appearing for the respondent, who has filed his statement objections has seriously opposed the bail application. However, he does not dispute that the other accused have already been enlarged on bail.

8. On the basis of the complaint lodged by D.G.Raghunath on 13.10.2023, FIR in Crime No.16/2023 was registered and thereafter, in the trap which was laid by the Lokayukta Police, accused No.3 was caught red handed after he had allegedly received a sum of Rs.3.00 lakh from the complainant. Accused Nos.2, 4 and 5 were subsequently arrested on the very same day. Accused Nos.4 and 5, as against whom almost similar allegations are found, have been granted bail by this Court in CrI.P.Nos.11096/2023 and 11242/2023. Accused No.3 has been granted bail in CrI.P.No.11482/2023 and accused No.1 was granted bail in CrI.P.No.11270/2023 on the very same date. The petitioner who is a lady and a Government servant is in custody from 13.10.2023. Major portion of the investigation in the case is completed.

Under these circumstances, I am of the opinion that the petitioner's prayer for grant of regular bail is required to be answered affirmatively. Accordingly, I pass the following:

ORDER

(i) The Criminal Petition is allowed.

(ii) The petitioner is directed to be enlarged on bail in Crime No.16/2023, registered by the Lokayukta Police Station, Davanagere, for the offences punishable under Sections 7(a), 7(b) and 12 of the Prevention of Corruption Act, 1988 subject to the following conditions:

(a) Petitioner shall execute personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties for the likesum, to the satisfaction of the jurisdictional Court.

(b) The petitioner shall appear regularly on all the dates of hearing before the trial Court unless the Trial Court exempts her appearance for valid reasons.

(c) The petitioner shall not directly or indirectly threaten or tamper with the prosecution witnesses.

(d) The petitioner shall not leave the jurisdiction of the trial Court without the permission of the said Court until the case registered against her is disposed off.

(e) The petitioner shall not involve in similar offences in future.