

KABC010206242023



IN THE COURT OF THE LXI ADDL. CITY CIVIL,
SESSIONS JUDGE: BENGALURU CITY

Dated this the 16th day of August, 2023

-: PRESENT :-

Sri R.Ravi, B.Sc., LL.B.,
LXI Addl. City Civil & Sessions Judge,
Bangalore, (CCH-62)

CRL. MISC. No.7412/2023

Petitioner/s : 1. Jagadish.M @ Jagadeeshan
S/o.Muniswamy @ Munusamy
Aged about 45 years
R/a.No.31, 1st 'A' main
Sathyanagaryana Layout
J.C.Nagar
Bengaluru.

Permanently R/a.
Bharathi Nagar
Salem
Tamil Nadu.

(Accused No.2)

(By Sri.Jayavantaraja Ratnakar,
Adv.)

V/s

Respondent : The State by
RMC Yard Police Station
Bengaluru.

(Rep. by Public Prosecutor,
Bengaluru.)

ORDERS ON ANTICIPATORY BAIL APPLICATION
ONE FILED BY THE PETITIONER UNDER SECTION 438
OF Cr.P.C.

The case of the petitioner is that he is innocent of the alleged offences and his name does not find place either in the FIR or in the complaint and but the respondent police have falsely implicated his name in the charge sheet at the later stage of the investigation and he is totally a stranger to the alleged crime and he has never involved directly or indirectly or committed the alleged offences and complainant has lodged complaint against Kavi Logistic but not against the petitioner and he was not aware of registration of the case against him and he was not served with summons/notice and due to non presence of the petitioner the learned IV ACMM had issued NBW against him and the co-accused No.1 has already been enlarged on bail by this Court in Crl. Misc. No.8471/2017 on 13.11.2017 and hence on parity grounds he is also entitled for bail and the alleged offences are not punishable with death or imprisonment for life and he is permanent resident of Bengaluru and has no bad antecedents and he is ready and

willing to abide by the terms and conditions that may be imposed by the court and he is also ready to offer surety to the satisfaction of the court for his release on bail & since the respondent police have registered a false case in CC. No.9549/2021 for the offences punishable under Section 406, 420 R/w. Section 34 of IPC and are trying to arrest him then he is constrained to file this petition for granting of anticipatory bail.

2. On the other hand the learned Public Prosecutor has filed his objections & opposed the above application that the grounds urged for granting anticipatory bail are not satisfactory & the charge sheet placed on record prima-facie shows the involvement of the petitioner in commission of the alleged offences & now at this stage if the petitioner is granted anticipatory bail then he may threaten, abscond & tamper the prosecution witnesses which in turn may hamper the trial & accordingly prayed for rejection of the bail petition.

3. I have heard the arguments of both sides & the points that would arise for my consideration are as hereunder;

1) Whether the petitioner has made out a prima-facie case for grant of anticipatory bail as prayed in the bail petition?

2) To what Order?

4. My findings on the above points are as follows:-

Point No.1 - In Affirmative

Point No.2 - As per final Order, for the following;

REASONS

5. **Point No.1:-** On perusal of the FIR, complaint & charge sheet it is alleged that complainant is running a factory in the name and style as 'Om Garments' and after manufacturing shirts they used to sent the same to those who will place orders with them to different places by packing the same and deliver them through transport & the Company by name Denim Hub Lifestyle Pvt. Ltd., and Denimhub situated at Hyderabad had placed order with the complainant and accordingly the complainant company packed 1412 of ready made shirts in 6 boxes & delivered two boxes to Denimhub and four boxes to Denim Hub Lifestyle Pvt. Ltd., through Kavi Logistics, Peenya, SRS Bus on 23.8.2017 and had received receipt for the same & on 24.8.2017 as the parcels were not received by Denim Hub Lifestyle Pvt. Ltd., and Denimhub even after two - three days called complainant over phone stating that they had not received the parcels and when the complainant enquired with Kavi Logistics they informed that the parcels were misplaced & in that regard the complainant had filed a complaint before the respondent police stating that the parcel containing cloths belonging to their company worth Rs.6,00,000/- were sent for dispatch to Denim Hub Life style

Pvt. Ltd., and Denimhub through Kavi Logistics, but the same were not dispatch and thereby Kavi Logistics have cheated the complainant and thereby committed the alleged offences punishable under section 406, 420 R/w. Section 34 of IPC.

6. Now, it is the contention of the petitioner that he has not at all committed the alleged offences and the accused No.1 has played major part in commission of the alleged offence and respondent police have later mentioned the name of the petitioner in the charge sheet.

7. On the other hand though the prosecution has opposed the above application that if the petitioner is granted anticipatory bail then he may abscond and tamper the prosecution witnesses is concerned, the same do not hold any water as the copy of the Aadhar card one produced by the petitioner and the cause title of the petition shows that he is permanent resident of Tamil Nadu and his presence can be easily secured before the court & I.O.

8. And more over since the alleged offences under Section 406, 420 R/w. Section 34 of IPC are not at all punishable with death or imprisonment for life & since the investigation is completed and charge sheet is also filed

against the petitioner & since the alleged offences against the petitioner has to be decided through a thorough trial and since the apprehension of the prosecution could be met by imposing stringent conditions then looking into the nature and gravity of the alleged offences, I am of the considered opinion that the petitioner has made out a prima-facie case for grant of anticipatory bail subject to conditions and accordingly, I have answered the above point No.1 in affirmative.

9. **Point No.2:-** In view of the discussion made on point No.1 and further holding it in the affirmative, I proceed to pass the following:-

O R D E R

The anticipatory bail petition filed by the petitioner u/s 438 of Cr.P.C., is hereby allowed subject to following conditions;

1. That in the event of arrest of the petitioner in C.C. No.9549/2021 (Cr. No.268/2017) of respondent Police he shall be released on bail on executing a personal bond for Rs.1,00,000/- with one surety for like sum amount.

2. That the petitioner shall not hold any threat to the complainant and shall not tamper with any of the prosecution witnesses directly or indirectly.

3. That the petitioner shall furnish his residential address proof and that of his sureties.

4. That the petitioner shall appear before the trial court regularly without fail on receipt of the summons.

5. That if the petitioner fails to obey any of the above said conditions, then this bail order automatically stands cancelled.

(Dictated to the Stenographer, transcribed and typed by her, corrected, signed and then pronounced by me in the open Court on this the 16th day of August, 2023).

(R.RAVI)

LXI ACC & SJ, B'luru

16.08.2023

P-JR

R-PP

Order pronounced in open Court (vide separate order) with the following operative portion:-

ORDER

The anticipatory bail petition filed by the petitioner u/s 438 of Cr.P.C., is hereby allowed subject to following conditions;

1. That in the event of arrest of the petitioner in C.C. No.9549/2021 (Cr. No.268/2017) of respondent Police he shall be released on bail on executing a personal bond for Rs.1,00,000/- with one surety for like sum amount.

2. That the petitioner shall not hold any threat to the complainant and shall not tamper with any of the prosecution witnesses directly or indirectly.

3. That the petitioner shall furnish his residential address proof

and that of his sureties.

4. That the petitioner shall appear before the trial court regularly without fail on receipt of the summons.

5. That if the petitioner fails to obey any of the above said conditions, then this bail order automatically stands cancelled.

(R.RAVI)
LXI ACC & SJ, B'luru

