

KABC010206862023



**IN THE COURT OF THE LII ADDL. CITY CIVIL &  
SESSIONS JUDGE, BANGALORE (CCH-53)**

Dated this the 11<sup>th</sup> day of August, 2023

**PRESENT**

**Sri.B.G.Pramoda, B.A.L., LL.B.,**  
LII Addl. City Civil & Sessions Judge,  
Bangalore.

**Cri.Misc.No.7445/2023**

**Petitioner:** Sri.Prashanth Ghorpade  
S/o Appasaheb,  
Aged about 41 years,  
R/at 375 KH/1, E Ward,  
Ahankar Parwati Residency,  
Ghorpade Galli, Shahupuri,  
Opp. Railway Station, Kholapur,  
Maharastra – 416001.  
  
(By Sri.Umashankar F., Advocate)

**-V/S-**

**Respondent :** State of Karnataka By  
South CEN Crime, police station,  
Bengaluru.  
  
(Represented by learned Public  
Prosecutor)

### ORDER

This petition is filed by the petitioner u/Sec.438 of Cr.P.C., praying to grant anticipatory bail to him in the event of his arrest by respondent police in Crime No.352/2023 of South CEN Crime police station for the offence punishable u/Sec.66, 66(C), 66(I) of IT Act and Sec.420 of IPC, pending on the file of learned 1<sup>st</sup> ACMM, Bengaluru.

2. It is stated in the petition that the respondent police have registered the case in Crime No.352/2023 against unknown persons by alleging the offence punishable u/Sec.66, 66(C), 66(I) of IT Act and Sec.420 of IPC on the basis of information given by one Smt.M.Suryakumari. It is further stated in the petition that the petitioner is innocent and he has not committed any offence as alleged against him. The petitioner has been falsely implicated in the aforesaid crime number. The petitioner was arrested in Crime No. 784/2023 of South East CEN., crime police station in which bail was granted to the petitioner. The facts of crime No. 352/2023 and crime No. 784/2023 are one and the same. The police are repeatedly calling petitioner to the police station and hence he has got apprehension of his arrest by the respondent police. The respondent police are making hectic efforts to arrest the petitioner. There is apprehension of arrest of the petitioner by the respondent police. The petitioner is from respectable family and has got respect in the society. He

has got deep roots in the society. The petitioner is ready and willing to offer surety to the satisfaction of the court. The respondent police are making hectic efforts to arrest the petitioner and the petitioner has got genuine apprehension of his arrest by the respondent police. Hence, the petitioner has prayed to allow the petition.

3. The learned Public Prosecutor has filed the objection to the petition along with I.O. report by opposing the grant of anticipatory bail to the petitioner on the ground that the offence alleged to have been committed by the petitioner is grave in nature and against to society. It is further stated in the objection that the case is still at the investigation stage. If the petitioner is enlarged on bail, he may abscond and he may not appear before Investigating Officer and may hamper the investigation of the case. The petitioner may threaten the informant and other prosecution witnesses and he may try to destroy the evidence. The petitioner may commit similar offence in future. Hence, the Learned Public Prosecutor has prayed to reject the petition filed by the petitioner.

4. Heard the arguments of Learned Public Prosecutor and Learned counsel for the petitioner. Perused the petition, objection and other materials on record.

5. Having done so, the following points will arise for my consideration:

(1) Whether the petitioner has made out grounds for granting anticipatory bail u/s.438 of Cr.P.C.,?

(2) What order?

6. My findings on the above points are as under:

(1) Point No.1 .. In the Negative

(2) Point No.2 .. As per final order for the following:

### **REASONS**

7. **Point No.1:-** The petitioner has filed the present petition praying for grant of anticipatory bail in Cr.No.352/2023 of South CEN Crime police station for the offence punishable u/Sec.66, 66(C), 66(I) of IT Act and Sec.420 of IPC which is registered against petitioner by the respondent police on the basis of information given by one Smt.M.Suryakumari. The petitioner has produced the certified copy of the complaint and certified copy of FIR and other documents.

8. It is alleged in the FIR that on 22.03.2023, the candidates who are likely to contest in the assembly election of Basavanagudi Constituency have received information and link as follows:

“In this auspicious Ugadi day, pay and block your assembly voters data with respective mobile numbers to win this assembly election with majority” promote your election manifesto to all voters in your assembly digitally through Whatsapp, SMS and Voice call. We provide you with all voters data with mobile numbers in your assembly at the cost of Rs.25,000/- only. Voter Data with mobile numbers cost of Rs.25,000/- in refundable, this offer is valid till election date is announced. Your assembly Basavanagudi-170 Log in, Website :<http://voters.life/admin>, User name: 9241204669, password: 381901, Sample voters list (assembly wise) :<http://voters.life/kademopage>, video link: <http://youtu.be/UHYZBBLb1LI>, for further detail, call us/ WhatsApp+918122293705, 7904920584, 9150973888.”

The informant after coming to know about the aforesaid message has given report to the police to take action against the persons who are sending the said messages.

9. On the basis of the said information, the respondent police have registered FIR against unknown persons. The name of the petitioner is not mentioned in the FIR or in the complaint. In the I.O. report also there is mention about involvement of the present petitioner in the alleged crime. The accused No.1 has given voluntary statement before I.O. But in the I.O. report there is mention that accused

No.1 has told the name of accused Nos. 2 to 5. But the name of the present petitioner is not stated by accused No. 1 or other accused. Further the respondent police have also not issued any notice to the petitioner till today directing him to appear for enquiry in crime No. 352/2023. Hence, there is no apprehension of arrest of the petitioner by the respondent police.

10. As it is rightly contended by learned counsel for the petitioner, non mentioning of name in the FIR alone is not the ground to reject the anticipatory bail application. Even though the name of the petitioner is not mentioned in the FIR, the petitioner has to show that he has got apprehension of his arrest on the allegation of commission of non-bailable offence. But as it is stated earlier there are no sufficient materials on record to show that the petitioner is also involved in the commission of alleged offence and respondent police are making efforts to arrest the petitioner. Merely on the ground that the petitioner was granted bail in Cri.No. 784/2023 which involves the similar allegations as alleged in the present petition, it cannot be come to conclusion that petitioner is also involved in the present case. Anticipatory bail under Sec. 438 of NI Act, can be granted only if the petitioner produces sufficient materials about apprehension of his arrest for non-bailable offence. But in the present petition the petitioner failed to produce sufficient materials to show

that he has got apprehension of his arrest by the respondent police on the allegation of commission of non-bailable offence. As such, the petitioner is not entitled for anticipatory bail. The discretion of this court under Sec. 438 of Cr.PC cannot be exercised in favour of the petitioner for granting of anticipatory bail. As such, the petition filed by the petitioner deserves to be dismissed. **Accordingly, I answer the above point in the Negative.**

11. **Point No.2**:- In view of my findings on point No.1, I proceed to pass the following:

**ORDER**

The petition filed by the petitioner u/Sec.438 of Cr.P.C., is hereby dismissed.

(Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the open court on this the 11<sup>th</sup> day of August, 2023).

**(B.G.Pramoda)**  
LII Addl. City Civil & Sessions Judge,  
Bangalore.

