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Sanjeev Kumar Dayanand vs the State

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Court : Karnataka Kalaburagi

Decided On : Aug-02-2024

Judge : C M Joshi

Appeal No. : CRL.P/200583/2024

Appellant : Sanjeev Kumar Dayanand

Respondent : The State

Judgement :

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IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH DATED THIS THE 2ND DAY OF AUGUST, 2024 BEFORE THE HON'BLE MR. JUSTICE C M JOSHI CRIMINAL PETITION NO. 200583 OF 2024 (438) BETWEEN: SANJEEV KUMAR DAYANAND S/O. GUNDAPPA DAYANAND, AGE: 55 YEARS, OCCUPATION: BUSINESS RESIDENT OF NO. 1923, 4TH MAIN ROAD, NEAR ST. PETERS ENGLISH SCHOOL, RPC LAYOUT, VIJAYANAGAR, BENGALURU NORTH 560040. PETITIONER (BY SRI. MADHUCHANDRA NIMBARGIKAR AND SRI. S.N. JOGAN, ADVOCATES) AND: THE STATE OF KARNATAKA, THROUGH KALABURAGI CITY CEN CRIME POLICE STATION,

Digitally signed by KALABURAGI 585102, YASHAVANT NARAYANKAR NOW REPRESENTED BY ADDL. SPP Location: HIGH COURT HIGH COURT OF KARNATAKA, OF KARNATAKA AT KALABURAGI BENCH 585104.

RESPONDENT (BY SMT. ANITA M. REDDY, HCGP) THIS CRL.P FILED U/S. 438 OF CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO GRANT THE ANTICIPATORY BAIL TO THE PETITIONER / ACCUSED NO.10 AND DIRECT THE KALABURAGI CITY CEN CRIME POLICE STATION TO RELEASE THE PETITIONER / ACCUSED NO.10 ON BAIL IN THE EVENT HIS ARREST IN KALABURAGI CITY CEN CRIME PS CRIME NO. 03/2024 DISTRICT KALABURAGI, FOR THE OFFENCES PUNISHABLE U/SECS. 120(B), 149, 406, 419, 420, 465, 468, 471 R/W SEC. 149 OF IPC PENDING ON THE FILE OF THE I -2-

ADDL. CIVIL JUDGE AND JMFC KALABURAGI, IN THE INTEREST OF JUSTICE.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER

WAS MADE THEREIN AS UNDER: CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL ORDER

(PER: HON'BLE MR. JUSTICE C M JOSHI) Heard the learned counsel for the petitioner and the learned High Court Government Pleader for the respondent-State. Though time was prayed by the learned High Court Government Pleader for filing objections, the same is not sustainable, as sufficient time granted already.

02. This petition under Section 438 of Code of Criminal

Procedure, 1973 (for short 'Cr.P.C.") is filed by the petitioner- accused No.10 to enlarge him on anticipatory bail in Crime No.3/2024, registered by the Kalaburagi City CEN Police Station, for the offences punishable under Sections 120(B), 149,

406, 419, 420, 465, 468 and 471 read with section 149 of Indian Penal Code, 1860 (for short IPC).

03. The complainant - Ambrish was introduced to the accused No.1 by accused No.4, who were in real estate -3-

business. It was alleged that a piece of land measuring 06 acres 05 guntas in Sy.No.7/2 was shown to be belonging to the Christian community and it is situated in the heart of Kalaburagi City and as such the accused convinced the complainant. Therefore, he agreed to purchase the said land. The accused Nos.1 to 5 went to the Baldwin International School and the office of the Methodist Church, where they met the accused Nos.14 to 21. After negotiations, they had entered into an agreement. The accused No.1 took the complainant to accused No.3 who had verified the documents and vouched for its correctness. Then the complainant had parted with a sum of rupees five crores to accused Nos.8 to 21 at the instance of the accused Nos.1 to 3. Ultimately, the complainant had paid a sum of Rs.20,23,43,140/- to the accused persons. Then the accused had stated that a civil suit in O.S.No.521/2023 is pending and there is a stay. Therefore, the sale could not be completed. It was alleged that since the accused had entered into an agreement with the intention that it should not be honoured, there was a cheating. Therefore, a complaint came to be filed. Obviously, the transactions between the complainant and the accused were through bank transaction also. Now, the accused

-4- No.10 in the FIR has approached this Court seeking anticipatory bail.

04. The learned counsel appearing for the petitioner

would submit that there is no specific role assigned to the accused No.10. The money had been received by other accused. As such, there is no need for the custodial detention of this petitioner. It is submitted that though it was alleged that the accused No.10 had accompanied the complainant to Bengaluru for negotiations, but they had no role to play in fructification of the contract. Therefore, it cannot be said that the petitioner is also involved in the commission of the offence.

05. Per contra, the learned High Court Government

Pleader appearing for the respondent - State would submit that the matter pertains to cheating of a huge amount to the tune of more than rupees twenty crores. Therefore, it is submitted that the investigation is under progress. As such it would not be proper to grant the anticipatory bail. It is submitted that the matter is entrusted to the CID and the CID is investigating the matter.

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06. A perusal of the records would show that the role

of the petitioner herein who is arrayed as accused No.10 is not specifically decipherable from the complaint. However, it may be seen that the presence of the accused No.10 was found with other accused while the complainant has visited the Methodist Church at Bengaluru and had participated in the talks regarding the registration of the sale deed and also that whenever the complainant went there, the accused No.10 used to receive him and take him to the other accused. In that view of the matter, when there is no specific allegation against the petitioner who is accused No.10, and also appreciating the fact that the other accused were granted anticipatory bail, the present petitioner who is accused No.10 is also entitled for anticipatory bail. Consequently, the petition deserves to be allowed. Accordingly, the following;

ORDER

The criminal petition is allowed. In the event of arrest in Crime No.3/2024 for the offences punishable under Sections 120 (B), 149, 406, 419, 420, 465, 468 and 471 read with Section 149 of IPC, registered by the Kalaburagi CEN Crime Police Station, Kalaburagi, the arresting -6- officer is directed to release the petitioner - accused No.10 on bail subject to following conditions: i) The petitioner shall furnish personal bond for a sum of Rs.2,00,000/- with one surety for the likesum to the satisfaction of the Arresting Officer; ii) The petitioner shall appear before the Investigating

Officer within 15 days from the date of this order

and co-operate for the investigation; iii) The petitioner shall furnish their residential address and other contact details to the SHO of Kalaburagi CEN Crime Police Station, Kalaburagi within 15 days from the date of this order; iv) The petitioner shall not tamper with the prosecution evidence or witnesses directly or indirectly in whatsoever manner; v) The petitioner shall appear before the learned Magistrate/ Trial Court as and when directed; vi) The petitioner shall also appear before the Investigating Officer of the said police station/CID as and when directed.

Sd/- (C M JOSHI) JUDGE SMM/LIST NO.: 19 SL NO.: 1

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