



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF OCTOBER, 2022

BEFORE

THE HON'BLE MRS JUSTICE M G UMA

CRIMINAL PETITION NO. 9718 OF 2022

BETWEEN:

KUNAL ANUP CHANDARANA
S/O ANUP
AGED ABOUT 42 YEARS
PERMANENTLY R/AT NO.K-84
ORCHID WHITE FIELD CORPORATE ROAD
PRAHLADNAGAR, VEJALPUR
AHMEDABAD – 380 015

...PETITIONER

(BY DR.NARENDRA K AMIN, ADVOCATE)

AND:

STATE BY SOUTH CEN
CRIME POLICE STATION
BANGALORE-560023
REPRESENTED BY SOPP
HIGH COURT OF KARNATAKA
BANGALORE – 560 001

...RESPONDENT

(BY SRI.H.S.SHANKAR, HCGP)

THIS CRL.P. IS FILED U/S.438 CR.P.C PRAYING TO ENLARGE THE PETITIONER ON BAIL IN THE EVENT OF HIS ARREST IN CR.NO.335/2021 OF SOUTH CEN CRIME P.S., BENGALURU CITY FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 66(C),66(D) OF





INFORMATION ACT R/W SEC.419,420 OF IPC PENDING ON THE FILE OF THE I ACMM AT BENGALURU.

THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner/accused No.1 is before this Court seeking grant of anticipatory bail under Section 438 of Cr.P.C. in Crime No.335/2021 of South CEN Crime Police Station, registered for the offences punishable under Sections 419 & 420 of the Indian Penal Code (for short 'IPC') and under Section 66(c), 66(d) of the Information Technology Act, 2008 (for short 'I.T Act'). On the basis of the first information lodged by Gowtham P.K.

2. Heard Sri Narendra K, learned Counsel for the petitioner and Sri H.S.Shankar, learned HCGP for the respondent-State. Perused the materials placed on record.

3. Learned Counsel for the petitioner submitted that the petitioner is arraigned as accused No.1. He is innocent and has not committed any offence as alleged. He has been falsely implicated in the matter without any basis. Even he does not know who is the complainant. Initially, the FIR was



registered at Ahmedabad which was subsequently closed on enquiry. About 43 days after the alleged date of incident, the present FIR was registered with South CEN Crime police Station, Bengaluru for the Offences punishable under Sections 419 & 420 of IPC and Sections 66(c), 66(d) of the I.T Act.

4. There is absolutely nothing on record to connect the petitioner to the offences alleged. The provision of I.T Act or IPC are not at all attracted to the facts and circumstances of the case. After all, this is a civil dispute arising out of commercial transaction. The petitioner is not the beneficiary under any of the transactions. The petitioner is not required for custodial interrogation. He is the permanent resident of the address mentioned in the cause title to the petition and he undertakes to cooperate with the investigation. Learned Counsel further submitted that accused Nos.3 and 4 are already enlarged on bail. Therefore on parity, the petitioner also requires to be enlarged on bail. Accordingly, he prays for allowing the petition.

5. *Per contra*, learned High Court Government Pleader opposing the petition submitted that serious allegations are



made against the petitioner for having committed the offences. Even though, the FIR was registered in 2021, the petitioner filed Criminal Petition in Crl.P.No.6690/2021 under Section 482 of Cr.PC praying to quash the criminal proceedings initiated against him and managed to get stay of the further investigation. Therefore, the investigation was stayed. The said petition came to be dismissed vide order dated 03.09.2022 and now the investigation has just begun.

6. Learned HCGP further submitted that accused Nos.3 and 4 were apprehended and they were subjected to interrogation. Therefore, no parity can be claimed against the co-accused. Learned HCGP further submitted that the petitioner being the main accused has actually involved in the commission of the offences. This Court while disposing Crl.P.No.6690/2021 categorically held that the contentions raised by the petitioner that he does not know the complainant is contrary to the record. It is also noticed that Plethora of whatsapp chats between the petitioner and complainant was found which demonstrates transfer of funds twice to the account of the petitioner. The huge amount of Rs.3.5 Crores is involved in the



case. The detailed investigation is required to be undertaken. Therefore, he prays for dismissal of the petition.

7. In view of the rival contentions urged by the learned counsel for both the parties, the point that would arise for my consideration is:

"Whether the petitioner is entitled for grant of bail under Section 438 of Cr.P.C.?"

8. My answer to the above point is in the 'Negative for the following:

REASONS

9. The allegations made against the petitioner and other accused is of serious nature. Even though the learned Counsel for the petitioner contended that he does not know the complainant nor he has involved in the commission of offence, the copy of order dated 03.09.2022 in CrI.P.No.6690/2022 produced by the petitioner discloses that on meticulous consideration of the materials on record, this Court has recorded a finding that contention of the petitioner that he does



not know the complainant is contrary to the records. Several whatsapp chats between the petitioner and the complainant were noticed and the transaction for a sum of Rs.3.5 Crores in Bhumi Agro account is also taken into the consideration. The communication of the petitioner through whatsapp chats on particular days were highlighted. It is categorically held that there are prima-facie materials against the petitioner for having committed the offence as alleged. The investigation is still at the initial stage, since same was stayed during the pendency of the criminal petition under Section 482 of Cr.PC. Considering the nature of allegation and the materials that are placed before the Court which show that the petitioner is required for interrogation. Therefore, he is not entitled for the benefit of pre arrest bail.

10. Regarding the contention of the learned Counsel that accused Nos.3 and 4 are already enlarged on bail is concerned, admittedly they were enlarged on bail under Section 439 of Cr.PC. Therefore, the benefit of parity cannot be applied to the present petitioner. Hence, I answer the above point in the negative and proceed to pass the following:



ORDER

The petition is ***dismissed***.

At this stage, learned Counsel for the petitioner prays for stay of the investigation for a period of six months. When this Court in Crl.P.No.6690/2021 and on re-appreciation of the materials on record, in this petition found that there are prima-facie materials which require interrogation of the petitioner, I do not find any reason to stay the further investigation in the matter. The investigation is already delayed in view of the stay granted by this Court and any delay in investigation would lead to disappearance or destruction of the material evidence that may be available on record. Hence, the prayer is rejected.

**Sd/-
JUDGE**

PKN
List No.: 2 SI No.: 9