

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2022

BEFORE

THE HON'BLE MR. JUSTICE K.NATARAJAN

CRIMINAL PETITION NO.5734 OF 2022

BETWEEN

C MANJUNATHA YADAVA
S/O CHITRASHEKAR
AGED ABOUT 36 YEARS,
R/AT KASAVANAHALLI VILLAGE
TOPURA MALIGE POST
CHITRADURGA TALUK
CHITRADURGA - 577 511

... PETITIONER

(BY SMT. SRUTI C. CHAGANTI, ADVOCATE)

AND

STATE OF KARNATAKA
BY CHITRADURGA TOWN POLICE
CHITRADURGA
REPRESENTED BY THE SPP
HIGH COURT BUILDING
BANGALORE -560001

... RESPONDENT

(BY SRI. V.S. HEGDE, SPP-II ALONG WITH
SRI. KRISHNA KUMAR K.K., HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.173/2021 OF CHITRADURGA TOWN P.S., CHITRADURGA FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 420,465,468,471,201 OF IPC SECTION 64 OF THE KARNATAKA STAMP ACT 1957 AND SECTION 83 OF THE REGISTRATION ACT, 1908 PENDING ON THE FILE OF THE LEARNED PRINCIPAL CIVIL JUDGE (JUNIOR DIVISION) AND JMFC, CHITRADURGA IN C.C.NO.1660/2022.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 18.08.2022 THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioner/accused under Section 439 of Cr.P.C. for granting bail in Crime No.173/2021 registered by Chitradurga Town police station for the offences punishable under Sections 420, 465, 468, 471 of IPC, Sections 62 and 64 of Karnataka Stamp Act, 1957 and Section 83 of Registration Act, 1908 now pending on the file of learned Principal Civil Judge and JMFC, Chitradurga in C.C.No.1660/2022.

2. Heard the arguments of learned Counsel for petitioner and learned S.P.P II for the respondent-State.

3. The case of the prosecution is that one Ravindra L. Pujar, the District Registrar of Chitradurga District, has filed a complaint before the police on

29.09.2021 alleging that the petitioner Manjunatha Yadav is a deed writer in Chitradurga vide licence No.26/2011 and he has created K-2 challan illegally by receiving the amount paid by the purchasers of the properties. It is further alleged that by manipulating the K-2 challan, the petitioner has deposited the lesser amount than what is collected and thereby, caused wrongful loss of Rs.1,65,87,815/- to the State Exchequer. He has further alleged that the accused by creating a manipulated K-2 challan, has paid the lesser amount to the treasury i.e. he has collected Rs.1,67,71,170/-, but he has misappropriated Rs.1,65,87,815/- and deposited only Rs.1,12,090/-. Totally, the accused has collected amount from 194 purchasers and thereby, cheated the State Government. After registering the case, the petitioner approached this Court for granting anticipatory bail which came to be rejected. Subsequently, he has

surrendered before the Magistrate and now he is in custody from 11.01.2022.

4. The learned counsel for the petitioner has argued that the petitioner is innocent of the alleged offence. He is only a deed writer. His duty is to prepare the draft sale deed and produce the same before the office of the Sub-Registrar and he is representing before the Sub-Registrar office. In turn, the office of the Sub-Registrar shall generate K-2 challan by showing the amount to be payable by the purchasers towards stamp duty and other auxiliary charges. The learned counsel further submitted that the petitioner has no access to the treasury and ancillary generate the K-2 challan. Therefore, the question of manipulating the challan without the involvement of the officials of the Sub Registrar is not possible. The alleged offences will attract Section 65 of the Information Technology Act, which is bailable one. The alleged offences though non bailable one but

not punishable with death or imprisonment for life and triable by Magistrate. Learned counsel submits petitioner is in custody for more than seven months and there is nothing recovered from the petitioner in spite of taking him to the police custody. Now the investigation is already completed and charge sheet has been filed. He is ready to abide by any conditions. Hence prayed for granting bail.

5. Per contra, learned S.P.P-II for the respondent State, has contended that the petitioner being the deed writer, by receiving the challan generated in the office of the Sub-Registrar was collecting the amount mentioned in the challan and in turn he was remitting the lesser amount to the treasury by generating a fake K-2 challan. He has collected Rs.1,67,71,170/- from 194 customers and he has deposited only Rs.1,12,090/- to the State Government and thereby, he has misappropriated more than Rs.1.65 crores, which is a loss caused to

the State exchequer. This was found by the complainant only after the audit report received from the concerned authorities. The learned S.P.P. II also submits the mobile phones, laptop were seized and sent to FSL for report and the same is not yet received. If he is granted bail, he may abscond and tamper with the prosecution witnesses. There were 194 documents seized, where it is clearly revealed the petitioner cheated the Government by misappropriating more than 1.6 crores. Hence, prayed for rejecting his bail petition.

6. Upon hearing the arguments and on perusal of the record, especially the complaint filed by the District Registrar, the complainant has given the details of the documents prepared by the petitioner, which was registered on various dates, totally 194 documents were registered. It is mentioned that in respect of one Shantamma, who got registered the document No.4948/2020-21 amount required to

deposit was Rs.69,330/- but he has remitted only Rs.2,330/- and thereby, he has misappropriated and caused loss to the State exchequer for Rs.67,000/-. Likewise, in all the documents, which were registered in the Sub-Registrar office, he has collected huge money, but deposited lesser amount by editing the remittance challans, which were payable to the treasury. But the amounts mentioned in the challans, which were issued by the Sub Registrar office, are much more payable by the customers. In fact, the Registrar by issuing notice collected the amounts from the purchasers and thereby the State Government received the money. However, the fact remains that the petitioner has remitted all the said amounts through his accounts at Axis Bank and ICICI Bank. It is not the case that the customers have deposited or transferred the money to treasury directly through their accounts but this petitioner has collected the money from the customers and he in turn remitted

the amounts through his bank account No.7777-05005156 and he himself made the payment through e-payment. Though the learned counsel has contended that it is not possible for the accused alone to create any document without connivance of the officials of the Sub Registrar office, of course, there is every possibility of involvement of the officials of the Sub-Registrar including the Sub-Registrar is not ruled out. It is submitted that the Sub-Registrar is already suspended from the service and enquiry is under progress. The offence committed by the accused cannot be taken in a lighter way as contended by the learned counsel. But it is serious offence and the petitioner has misappropriated more than Rs.1.65 crores to the State exchequer and there was wrongful gain by him. And considering the entire documents produced by the counsel in respect of the charge sheet, there are so many manipulations made by this petitioner by collecting huge amount from the

purchaser of the property and he has issued fake challan generated from his office and the same was accepted by the Sub-Registrar Office and they have issued the successful report and thereafter the documents were got registered by the purchasers. Ofcourse, huge loss caused to the Ex-Chequer of the State, but the police have filed the charge sheet only against the petitioner and not investigated and arrested any of the officials of the Sub-registrar office. Without aid and assistances of the officials of the Sub-Registrar it is not possible to issue the fake challan and question of accepting the same by the Sub-Registrar office without cross verification of the stamp duty paid by the purchaser either prior to the registration of document or subsequent to the registration of the document. The police also stated, they are still making further investigation and awaiting the report of the Forensic Science Lab. This petitioner is already in custody for more then 7 months. He was

already taken to police custody and they have seized mobile phone, laptops etc., where he is said to have already deleted the data entries and there is nothing to recover from this petitioner, except for further investigation, for seizing any property which was purchased by him by investing the crime proceeds. The alleged offence is triable by Magistrate and not punishable by death or imprisonment for life. The counsel for the petitioner also contended the daughter of the complainant said to be unwell and no one is there to look after the child and therefore presence of the petitioner may be required for providing treatment to the child. Therefore, considering the facts and circumstances of the case, by imposing certain conditions, if bail is granted, no prejudice would cause to the prosecution case. Hence, the following order:

ORDER

Accordingly, this criminal Petition is allowed.

The petitioner/accused is ordered to be released on bail, in Crime No.173/2021 registered by Chitradurga Town police station for the offences punishable under Sections 420, 465, 468, 471 of IPC, Sections 62 and 64 of Karnataka Stamp Act, 1957 and Section 83 of Registration Act, 1908 now pending on the file of learned Principal Civil Judge and JMFC, Chitradurga in C.C.No.1660/2022, subject to the following conditions:-

- (i) Petitioner-accused shall execute a personal bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for the likesum to the satisfaction of the trial Court;*
- (ii) Petitioner shall not indulge in similar offences strictly;*

- (iii) Petitioner shall not tamper with the prosecution witnesses directly/indirectly;*
- (iv) Petitioner shall not leave the jurisdiction without prior permission of the trial Court; and*
- (v) Petitioner shall appear before the Investigation Officer as and when called for further investigation.*

If any of the above conditions are violated, the prosecution is at liberty to seek cancellation of this bail order.

**Sd/-
JUDGE**

AKV