

Sri Chethan Kumar vs State Of Karnataka on 22 July, 2022

Author: H.P. Sandesh

Bench: H.P. Sandesh

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JULY, 2022

BEFORE

THE HON'BLE MR. JUSTICE H.P. SANDESH

CRIMINAL PETITION NO.5877/2022

BETWEEN:

SRI CHETHAN KUMAR
S/O MAHADEVA
AGED ABOUT 32 YEARS
R/AT PEENYA VILLAGE
2ND STAGE
BANGALROE-560091

... PETITIONER

(BY SRI SHIVA PRASAD S, ADVOCATE)

AND:

STATE OF KARNATAKA
BY PENSION MOHALLA P.S.
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560 001

... RESPONDENT

(BY SRI H S SHANKAR, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 438
OF CR.P.C., PRAYING TO ENLARGE THE PETITIONER ON BAIL IN
THE EVENT OF HIS ARREST IN CR.NO.30/2022 OF PENSION
MOHALLA P.S., HASSAN DISTRICT, FOR THE OFFENCES
P/U/Ss.406, 420 R/W. 34 OF IPC

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

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ORDER

This petition is filed under Section 438 of Cr.P.C., praying this Court to enlarge the petitioner/accused No.1 on bail in the event of his arrest in respect of Crime No.30/2022 registered by Pension Mohalla Police Station, Hassan District, for the offences punishable under Sections 406, 420 read with 34 of IPC.

2. Heard the learned counsel appearing for the petitioner and the learned High Court Government Pleader appearing for the respondent-State.

3. The factual matrix of the case of the prosecution is that on 07.01.2022 through Sony Kumar, this petitioner and Mythri were introduced and expressed that they are in need of District franchisee for the AARCELL Battery Company. If they invest the money in the said business, they would get profit and this petitioner is the General Manager of the company and Mythri is the Business Development Manager and got an advance amount of Rs.2 Lakhs from the complainant and also made the complainant to pay the advance amount towards the shop. It is also an allegation that they spent an amount of Rs.60,000/- for interiors and also collected an amount of Rs.70,000/- towards two months rent. When the complainant insisted this petitioner to provide batteries, he has given the false reasons and postponed the same. When the complainant suspected and enquired, he came to know that there is no office pertaining to AARCELL batteries in Bengaluru. Hence, the complainant came to know that this petitioner is playing fraud and not picked up the phone. That on 16.03.2022 at 4:00 p.m, the complainant met this petitioner and Mythri and enquired that why they are not picked up the phone and also AARCELL batteries are not provided to him. Again, this petitioner had given one or the other reason in order to escape from the complainant. Immediately, he was taken to Pension Mohalla Police Station and gave the complaint against this petitioner alleging that he had committed fraud on the complainant.

4. The learned counsel appearing for the petitioner would submit that there are case and counter cases. This case is registered in Crime No.30/2022 and the complaint given by this petitioner was registered as Crime No.31/2022, wherein, a specific allegation is made that the accused persons committed an offence of extortion as well as assault and outrages the modesty of a woman. The learned counsel submits that this Court granted bail to accused No.2 in CrI.P.No.4429/2022 vide order dated 07.07.2022 and when case and counter cases are registered against each other, this petitioner is also entitled for the bail and prayed to allow the petition.

5. Per contra, the learned High Court Government Pleader appearing for the State would submit that the case and counter cases are registered against each other and a quarrel was taken place with regard to payment of money regarding giving up of franchisee. Hence, there is a prima facie case against the petitioner herein.

6. Having heard the respective counsel and also on perusal of the material available on record, it is clear that this petitioner is arraigned as accused No.1 and there are case and counter cases registered

between the parties, wherein, the specific allegations are made with regard to payment of amount towards the Company in order to giving up of franchisee. When a demand was made to refund the amount, a quarrel was taken place between the parties and this Court granted bail in favour of accused No.2 in the similar facts and circumstances. When such being the case, it is a fit case to exercise the discretion in favour of the petitioner under Section 438 of Cr.P.C., subject to the condition that he has to appear before the Investigating Officer to assist him for investigation.

7. In view of the discussions made above, I pass the following:

ORDER The petition is allowed. Consequently, the petitioner/accused No.1 shall be released on bail in the event of his arrest in connection with Crime No.30/2022 registered by Pension Mohalla Police Station, Hassan District, for the offences punishable under Sections 406, 420 read with Section 34 of IPC, subject to the following conditions:-

(i) The petitioner shall surrender himself before the Investigating Officer within ten days from the date of receipt of a certified copy of this order and shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with two sureties for the like-sum to the satisfaction of the concerned Investigating Officer.

(ii) The petitioner shall not indulge in hampering the investigation or tampering the prosecution witnesses.

(iii) The petitioner shall co-operate with the Investigating Officer to complete the investigation and he shall appear before the Investigating Officer, as and when called for.

(iv) The petitioner shall not leave the jurisdiction without prior permission of the Investigating Officer till the charge sheet is filed or for a period of three months, whichever is earlier.

(v) The petitioner shall mark his attendance once in a month i.e., on 30th of every month between 10.00 a.m. and 5.00 p.m., before the Investigating Officer for a period of three months or till the charge-sheet is filed, whichever is earlier.

Sd/-

JUDGE SN