

Sri N Narasimha Murthy vs State Of Karnataka on 24 November, 2015

Author: A.V.Chandrashekara

Bench: A.V.Chandrashekara

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24 TH DAY OF NOVEMBER 2015

BEFORE

THE HON'BLE MR. JUSTICE A.V.CHANDRASHEKARA

CRL. PETITION NO. 6728/2015

BETWEEN:

SRI N.NARASIMHA MURTHY
ABED 39 YEARS, S/O LATE NANJUNDAIAH
1059, 3RD BLOCK, 3RD STAGE,
5TH 'A' MAIN ROAD,
BASAVESHWARANAGAR,
BANGALORE-560 079.

... PETITIONER

(BY SRI C.V.NAGESH, SENIOR COUNSEL FOR SRI
RAGHAVENDRA K., ADV.)

AND:

STATE OF KARNATAKA
BY THE SPECIAL INVESTIGATION TEAM
CONSTITUTED AS PER
ORDER NO.HD288.POP.2015 DATED 7.7.2015,
BANGALORE, BY LOKAYUKTA POLICE,
BANGALORE.

... RESPONDENT

(BY SRI C.H.JADHAV, SENIOR ADV.)

THIS CRL. PETITION IS FILED U/S 439, Cr.P.C.
PRAYING TO ENLARGE THE PETITIONER ON BAIL IN
CRIME NO.61/15 OF KARNATAKA LOKAYUKTA,
BANGALORE CITY, FOR OFFENCES PUNISHABLE
UNDER SECS.384, 420, 506 AND 120B0F I.P.C. AND
SECS.8 AND 9 OF P.C. ACT.

THIS PETITION HAVING BEEN HEARD AND
RESERVED ON 19.11.2015, AND COMING ON FOR

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PRONOUNCEMENT OF ORDERS THIS DAY,
A.V.CHANDRASHEKARA, J., MADE THE FOLLOWING:

ORDER

The present petitioner is 3rd accused in a criminal case in Crime No.6/15 on the file of Lokayukta police station, Bengaluru, a case registered for the offences punishable under Sections 384, 420, 506, 120B, I.P.C. and Sections 8 and 9 of the Prevention of Corruption Act, 1988. He is in judicial custody for more than 3 months and hence this regular bail application is filed on his behalf.

2. Learned counsel for the petitioner has requested this court to release the petitioner contending, inter alia amongst other grounds, that the offences alleged against him are neither punishable with death nor with imprisonment for life, though triable by the special court dealing with offences arising out of the Prevention of Corruption Act. He has submitted that the entire investigation is completed and charge sheet is filed. It is his submission that prima facie Sections 8 and 9 of the P.C. Act do not apply to the facts of the present case. He has submitted that the petitioner has undertaken to obey any condition which may be imposed upon him.

3. Sri C.H.Jadhav, learned senior counsel and advocate representing the respondent-SIT, has filed detailed objections opposing the bail application. He has vehemently argued that the case came to be registered on the basis of first information lodged by Umashankar who is presently working as Chief Engineer in KSHDCL, Bengaluru, since March 2015. The said first informant is in charge of the construction and maintenance of Lokayukta office building, residential quarters of Lokayukta officials working there. At about 4.45 p.m. on 15.2.2015, he received a call from No.8884936560 on his mobile introducing himself as one Krishna Rao, private secretary to Lokayukta, Karnataka, and had told him that he should speak to Lokayukta. At about 6.00 p.m. on the same day, the first informant went to the official residence of Lokayukta and intimated to the people there that he had come to see the Lokayukta pursuant to a call received on his mobile.

4. Then somebody is stated to have told him that he would be introduced to Krishna Rao and wanted him to sit in the visitors' hall. He waited for about 1 ½ hours and a person came introducing himself as Krishna Rao. The first informant asked as to what was the problem with him. The said person then introduced him to the accused and accused told him to wait for some time since Lokayukta would come. Then the 2nd accused was introduced to him and 2nd accused told him that his mobile was under surveillance because of complaints against him. Then the first informant is stated to have told him that he was an honest officer working in the interest of public as well as the Government. Then accused no.2 told him to sort out the complaint with one Narasimha Murthy and went inside the house.

5. Then the accused is stated to have threatened him with dire consequences if he did not get the complaint closed at the earliest. The first informant is stated to have insisted him to tell as to what exactly was the complaint. At that time Narasimha Murthy is stated to have demanded Rs.3.00 crores to solve the problem with Lokayukta and ultimately scaled it down to Rs.2.00 crores and asked as to when it would be paid. Then the first informant is stated to have told him that he had already fixed his daughter's marriage and had pooled money out of GPF subscription and the

marriage will have to be postponed since he was expecting permission as Chief Engineer and in view of the threats, he was perplexed.

6. Then the first informant contacted one Venkataramane Gowda and told him about the demand made and therefore, Venkataramane Gowda paid Rs.5,00,000/- as hand-loan to him on 10.2.2015. He paid Rs.5,00,000/- to Narasimha Murthy at 11.00 a.m. on the same day and it was sent through his private driver-Gopalappa in a cover. At about 1.00 pm. on 10.2.2015, the first informant telephoned Narasimha Murthy about money being sent through his private driver and at 6.45 p.m., he confirmed the receipt of the amount and assured him that he could be relieved, and first informant was relieved.

7. After some days, the first informant came to know of the serious corruption charges made in respect of certain people connected with Lokayukta office and touts and he saw one person named Bhaskar @ 420 Bhaskar in Suvarna News Channel and he came to know that it was this person who had introduced himself as Krishna Rao, private secretary to Lokayukta in the house of the Lokayukta and also about the 1st accused. The first informant is stated to have not disclosed anything about this to anybody since he had threat to his life.

8. A serious allegation is made against this petitioner to extort money from public servants. The present petitioner is working in the Department of Home and was in the office of Director General of Police. During the course of investigation, the role of the present petitioner is stated to have been satisfactorily established on the basis of the statements of Gopalappa, private driver of the first informant recorded under Section 164(5), Cr.P.C. Technical evidence such as call details records also speak about the clear participation of this petitioner with other accused in threatening the first informant on one pretext or the other to extort money.

9. Sri C.H.Jadhav, learned senior counsel has submitted that a Special Investigation Team (SIT) is constituted by the Government of Karnataka headed by a very senior IPS officer of the rank of Additional Director General of Police, having 25 years service to conduct a thorough investigation. It is also forthcoming that Mr.Kamal Pant who has put in more than 25 years of service and is in the rank of ADGP, and has conducted a thorough and competent investigation about the allegations made against this petitioner and others and in the three connected cases already registered.

10. Mr.Kamal Pant has sufficient experience having worked in C.B.I. and is ably assisted by senior IPS officers like Deputy Inspector General of Police, Superintendent of Police, Deputy Superintendent of Police and police inspectors to conduct a thorough and complete investigation as done in the present case to unearth many more details since serious allegations are made about persons connected with Lokayukta and persons close to them who were virtually extorting money in one form or the other.

11. As rightly pointed out by Sri Jadhav, the materials collected by the criminal investigating agency till now prima facie indicate that the petitioner, in furtherance of the conspiracy hatched with others, had converted the office of the Lokayukta, an institution to combat corruption, into an office of corruption and extortion. He has argued that great disrepute is brought to the institution and its

credibility is severely damaged. There is a lot of force in this submission. Petitioner, being a public servant and being in the Department of Police, has interfered with the smooth functioning of the Lokayukta institution.

12. It is also submitted that though charge sheet is filed, further investigation is still to be done to unearth many more details and the case is still under further investigation in terms of Section 173(8), Cr.P.C. The voice-recorded conversations will have to be analyzed and report is to be submitted. This petitioner is stated to have played a key role in hatching a conspiracy with other accused to collect details of public servants holding high offices and to call them to the residence of Lokayukta and threaten them with the clear intention of extorting money. If the petitioner is released on bail at this stage, it will infringe the investigation process into various other allegations.

13. The statement of the first informant who is presently Chief Engineer is recorded under Section 164 Cr.P.C. Further statement of the private driver- Gopalappa and Venkataramane Gowda have been recorded. The statement of Jamadar, Deputy Commissioner of Ramanagaram, is also recorded on 27.8.2015 to substantiate that he had also received similar threats from these accused to a pay huge sum of money. This petitioner was involved in threatening them. Thus it is too premature to disbelieve the materials collected by the prosecution.

14. Learned senior counsel, Mr.C.H.Jadhav has relied on a decision of the Hon'ble apex court in the case of NIMMAGADDA PRASAD .v. CENTRAL BUREAU OF INVESTIGATION ([2013] 7 SCC 466). As per the facts of facts of the said case, multiple charge sheets involving money received by the co-accused and co- conspirators had been filed and the allegation was against the son of then Chief Minister of Andhra Pradesh, Late Sri Y.S.R.Reddy. The allegation against his son was that he had collected some money by starting Shell companies after giving various benefits to the allottees of land.

15. Though the punishment contemplated in the present case is neither punishable with death nor with imprisonment for life, one cannot forget that the allegation made in regard to extortion made by this petitioner along with others using the most credible institution like Lokayukta. Paragraph 23 of the said decision is relevant for the purpose of this case and it is extracted below:

'Unfortunately in the last few years, the country has been seeing an alarming rise in white-collar crimes which has affected the fibre of the country's economic structure. Incontrovertably, economic offences have serious repercussions on the development of the country as a whole. In State of Gujarat .v. Mohanlal Jitmalji Porwal ([1987] 2 SCC 364), this court while considering a request of the prosecution for adducing additional evidence, inter alia, observed as under:

'5. The entire community is aggrieved of the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence of the community. A disregard for the interest of the community

can be manifested only at the cost of forfeiting the truth and faith of the community in the system to administer justice in an even-handed manner without fear or criticism from the quarters which view white-collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest.' It is further held in the said decision that while granting bail, the court has to keep in mind the nature of evidence in respect of same, severity of punishment which would ensue the character of the accused, circumstances which are relevant to the accused, etc. The court would not be dealing with evidence, but would be dealing with reasonable grounds for believing the allegation. The court will have to see about the existence of prima facie evidence in respect of charge. It is not expected that at the stage of considering bail application, to have evidence establishing the guilt of the accused beyond all reasonable doubt.

16. Taking into consideration the serious conspiracy hatched by the petitioner with others to extort money from officials holding big offices and bringing disrepute to the esteemed institution like Lokayukta, this is not a fit case to grant bail at this stage.

17. In the result, the following order is passed:

ORDER The bail petition filed under Section 439, Cr.P.C.

is dismissed.

Sd/-

JUDGE vgh*