

KADG010019172023



Presented on : 07-06-2023
Registered on : 07-06-2023
Decided on : 02.9.2023,
Duration : --

**IN THE COURT OF
I ADDL DISTRICT AND SESSIONS JUDGE DAVANGERE
AT DAVANGERE, DAVANGERE
(Presided Over by Sri. J V VIJAYANANDA)**

SC/68/2023

COMPLAINANT:- State by Harihara Rural police,

(By Public Prosecutor, Davanagere)

- V/s -

ACCUSED :- Talavara Kuberappa & 2 Oth.,

A.1 Talavara Kuberappa S/o. Dongarappa, 58
years, R/o. near Anjaneya Bank,
Kukkawada village, Davanagere,
presently at Hottigenahalli village,
Harihara taluk,

(By K.K.K., Advocate)

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:- ORDER ON BAIL APPLICATION FILED U/s.439 of CR.P.C. :-

The accused No.1 has filed this bail application U/Sec.439
of Cr.P.C. and prayed to grant him regular bail.

2. The brief facts of prosecution case as per charge sheet are that, on 18.08.2022 the PSI of Harihara Rural Police Station was on patrolling duty, within the limits of Harihara Rural Police Station. At that time, the police constables by name Balaraja Naik and Shreedhar informed said PSI over phone about credible information of counterfeit notes on the roof of cattle shed of one Choudappa S/o Nagappa at Kottigenahalli village. In turn, the PSI informed said message to his higher authorities. As per the direction of higher authorities, the PSI has registered suo moto case. Thereafter, the CPI, who took up the investigation, has visited the spot along with panchas, PSI and his staff and found 3 bundles of counterfeit notes of Rs.500/- denomination and one plastic black colour bag on the roof of cattle shed of said Choudappa. The owner of said house Choudappa picked it, and produced before the police inspector, who counted and found counterfeit notes of Rs.500/- face value totally worth Rs.3,23,000/-. Accordingly, he has prepared the mahazar and seized the same. The CPI has enquired said Choudappa about said fake currency notes, who told that the villagers are talking that (A.1) Kuberappa S/o Dongrappa along with A.2 Rudresh & A.3 Rajesh.S, are doing fake currency note business. Therefore, the Circle Inspector of police, has obtained search warrant from the court, visited rented house of said Kuberappa (A.1), searched his house and found 14 fake currency notes amounting to Rs.7,000/-. Accordingly, he has seized the same by preparing the mahazar. After completion of the investigation, the I.O has filed charge sheet against the accused 1 to 3 for the offences punishable under Sec.489(A), 489(B), 489(C) & 489(D) R/w. Sec.34 of IPC.

3. In the application it is contended that the accused No.1 is innocent and has not committed any of the offences alleged against him, but he has been falsely implicated in the charge sheet. A.1 is in judicial custody from 1.9.2022. The name of the accused is not mentioned either in the complaint or in the FIR. The offences alleged are not punishable either with death or imprisonment for life. He is the permanent resident of Kukavada village, Davanagere taluk, and having movable and immovable properties. Prima facie there is no material or evidence to believe the allegation made against A.1. He is an aged person and suffering from age related ailments. He is having wife and minor children. The wife of the A.1 is also suffering from several health issues. A.1 is the sole earning member of his family, and he has to look after his family members out of his earnings. Further he has undertaken to be present on all the dates of hearing, and also he is ready and willing to abide by any conditions that may be imposed by this Court. Among other grounds, accused No.1 prayed to allow the application.

4. On the other hand, learned Public Prosecutor has filed objection and contended that there is prima facie material as against A.1 for having committed alleged offences, along with A.2 & 3. The I.O has already completed the investigation and filed charge sheet. If at this stage, bail is granted, he would tamper or threaten the prosecution witnesses, and also put hurdles in the fair trial of the case, and also there is chance of permanently abscond from the place. Among other grounds, learned Public Prosecutor prayed to reject the bail application.

4. From the above facts, the points that arise for my consideration are :-

1. Whether the accused No.1 has made out a ground to grant him regular bail ?
2. What Order?

5. I have heard both counsels, and perused entire file.

6. My answers to the above points are as follows : -

Point No.1: In the Affirmative,

Point No.2: As per final order for the following-

:- R E A S O N S :-

7. **Point No.1:-** At the outset, the respondent/police have registered FIR in Crime No.128/2022, for the offences U/s.489(A) & (B) & 420 of IPC, based upon suo-moto complaint lodged Sri.Aravind.B.S, PSI, Harihara Rural Police station, Harihara.

8. The learned counsel for the accused No.1 has submitted that, A.1 is no way concerned with the alleged incident, and he has been falsely implicated in the case. There is no mention of the name of A.1 either in the complaint or in the FIR, but only in the charge sheet the name of A.1 is forthcoming. The name of this accused is included in the charge sheet by the I.O only on the basis of say of some of the villagers. Moreover, the co-accused ie., A.2 & 3 have already obtained regular bail by the Hon'ble High Court of Karnataka in Crl.Petn. No.4366/23, dated 10.7.2023. So, A.1 is also entitled for grant of bail on the

ground of parity. Further it is submitted that, the accused No.1 is suffering from age related health issues, and taking treatment. Further A.1 has undertaken to appear before the court regularly on all the dates of hearing.

9. On the other hand learned P.P submitted that, A.1 happens to be the main accused in this case. A.1 along with A.2 & 3 were indulged in printing and circulating fake currency notes of Rs.500/- in their village. The articles used for printing the fake currency notes have been seized by the police. The case is posted for HBC, and at this stage if bail is granted to A.1, there is every chance of tampering and hampering the prosecution witnesses, and also he may abscond, and would put hurdle in the trial of the case. Accordingly he prayed to dismiss the bail application.

10. On careful perusal of the charge sheet and other prosecution papers, there are sufficient grounds and materials to believe the allegations against the accused No.1 at this stage of the proceedings. However, it is a matter of trial as the investigation is completed and charge sheet is filed. It appears during the course of investigation the I.O has seized the materials used to print the fake currency notes, and also recovered currency notes from the house of A.1. Moreover, A.1 was also involved in Hosapet Police Station Cr.No.103/2022 for the offences under Sec.489(B), 489(C) R/w.Sec.34 of IPC. Therefore prima facie A.1 is the habitual offender. The photographs produced alongwith charge sheet disclose that, fake currency notes recovered from the house of A.1. Any how it is a matter of trial.

11. It is pertinent to note here that, the accused No.1 is aged about 58 years, and suffering from several health issues. He has undertaken to abide by the conditions that may be imposed by this court, if he is granted bail. Further, the IO has already completed the investigation and has filed charge sheet. Therefore, the presence of the accused No.1 by the police for custodial interrogation is not required. The offences alleged are not punishable either with death or imprisonment for life. The accused No.1 is in judicial custody since from the date of his arrest.

12. It appears, the Hon'ble High Court has extended regular bail to A.2 & 3. The allegations made against A.2 & 3 is also on partition with the allegations made against A.1. A.1 is in judicial custody from the date of his arrest ie., from 30.3.2023. Since, the Hon'ble High Court has granted regular bail to A.2 & 3, in Crl.Petn.No.4366/2023, dated 10.7.2023, it is just and necessary to extend discretion in granting regular bail to A.1 also, subject to imposing of the conditions. Hence, I answered point No.1 in the Affirmative.

13. Point No.2 : In view of finding on point No.1, I proceed to pass the following : -

ORDER

Bail application filed by accused No.1 under Sec. 439 of Cr.P.C is hereby allowed.

Consequently, regular bail is granted to the accused /A.1 on his executing a personal bond for a sum of Rs.1,00,000/- with two sureties for the like sum, to the satisfaction of this Court, with following conditions : -

1. The accused No.1 shall not directly or indirectly threaten the prosecution witnesses.
2. He shall furnish proof of his residential address.
3. He shall be regular before the Court on all the dates of hearing, without fail.
4. He shall not involve in similar type of offence in future and if he involves this bail order would automatically stands cancelled.

(Dictated to the Judgment Writer directly on the computer, transcript corrected, signed and then pronounced by me in the open court, on this the 02nd day of September, 2023)

(J.V.VIJAYANANDA)
I ADDL. DISTRICT & SESSIONS JUDGE,
DAVANAGERE.

2.9.2023;

Order pronounced in the open court, vide separate order,

ORDER

Bail application filed by accused No.1 under Sec. 439 of Cr.P.C is hereby allowed.

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I ADJ., DAVANAGERE.