

KAMS010056562019



**IN THE COURT OF THE PRINCIPAL DISTRICT AND  
SESSIONS JUDGE AT MYSURU**

**Dated this, the 31<sup>st</sup> day of May 2022**

**Present:** **Sri. M.L.RAGHUNATH**, B.A., LL.M,  
Prl.District & Sessions Judge,  
Mysuru.

**SPL.C/366/2019**

**Complainant** : State by Udupi Police Station.

(By **Public Prosecutor**)

**//Vs//**

**Accused** : Rajendra Kumar S.V. and others.

**Accused No.1** Rajendra Kumar S.V. @ Bannanje Raja  
@ Raja @ Raja Shetty @ Raheem  
Khaleel Khan @ Kumara Raja  
Hemantha Hegde  
S/o late Sundar Shettigar,  
Aged about 50 years,  
Residing at Radhakrishna Villa,  
Baputhota, Malpe, Udupi.

(By Smt. B.S.Roopa, Advocate)

**:: ORDERS ON BAIL APPLICATION  
FILED BY THE ACCUSED No.1 ::**

Accused No.1 filed this bail application seeking an order of bail under Section 439 of Cr.P.C. for the offences punishable under Sections 384, 387, 504, 506, 507, 120(B), 109, 201 r/w Section 34 of I.P.C. and Section 3(1)(ii), 3(2), 3(4), 3(5) of KCOC Act.

2. The accused No.1 contends that, initially the complaint came to be registered against an unknown person. Subsequently, the name of this accused is falsely implicated based on alleged demands made by the accused for having money about 4 months earlier to the complaint. If really the accused made any such demands about 4 months earlier, then there would have no occasion for the complainant to register complaint against unknown person. The further statements of the complainant found to be the improvement in the case of the prosecution and there is an inordinate delay also in recording such statements. The alleged incident took place in the month of August 2018 and it had no nexus with the incident pertaining to the complainant. No complaints were registered by C.W.44 in respect of the alleged incident of August 2018 and it found to be a separate transaction. The incident pertaining to C.W.48 is also a concocted one and even if there is any such incident, it had no connectivity with the present case. Another incident pertaining to C.W.159 is also a false and concocted story, which had no nexus with the present incident. The offences under Sections 364-A and 397 of I.P.C. are added in the

supplementary charge sheet even though the ingredients of the same are not made out in the F.I.R. and earlier investigation reports. The provisions of KCOC Act are not applicable and the same is wrongfully included. Now the accused is in judicial custody and investigation is already completed and his custodial interrogation is not required. The accused has already undergone half of the punishment prescribed to the main charge sheeted offences. 157 witnesses are cited earlier and additional 75 witnesses are shown in the charge sheet subsequently and trial takes its own time and the accused is appeared before the court regularly and undertakes to abide by the conditions to be imposed by this court. Hence, prays to allow the application.

3. The learned Special Public Prosecutor filed objections to the bail application and contends that, there are prima-facie case against the accused for having committed the offences under I.P.C. as well as KCOC Act. This accused though in custody at Belgaum Hindalaga jail, he had made threatening phone calls to the complainant and others demanding money in the form of 'Haftha' and other accused have collected money as per his direction. The statements of the witnesses clearly discloses about threatening calls made by this accused and collection of 'Haftha' through other accused persons. This accused had committed an offence of murder in the year 1998 and escaped to a foreign country by producing a false created passport and then created an underworld of crime. This accused is required in so many criminal cases against whom red corner notices were issued and thereafter the

accused was arrested at Morocco country through inter pole and produced before the court at India. This accused obtained false passports in the name of Kumara, Raja, Hemanth Hegde and other names. The C.D.R. of several phones discloses the involvement of this accused in making a conspiracy to commit the alleged offences along with other accused persons. This accused was found in possession of one mobile phone at Hindalaga Jail using the sim-cards. The prosecution has produced sufficient material against this accused for having received more than Rs.25 lakhs from the complainant. The voluntary statement of the accused was also recorded under the provisions of KCOC Act which shows that the accused had admitted in respect of the alleged offences committed by him. If the accused is released on bail, he may jump out of bail and is settled in an underworld at different countries. There are so many other criminal cases pending against this accused before the courts at Shivamogga, Mangaluru, Udupi, Bhravara, Malpe, Bengaluru and other places. More than 40 criminal cases are pending against this accused and he is required in all the criminal cases to face the trial and prays to reject the bail application.

4. Heard the arguments. Perused the records.
5. The points that arise for my consideration are as under:

**1. Whether the accused No.1 has made out sufficient grounds to grant an order of regular bail?**

## 2. What Order?

6. My answer to the above points are as under:

Point No.1: In the negative

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

### **: R E A S O N S :**

7. **POINT NO.1:** No doubt, the complainant filed a complaint stating that, on 13.03.2019 he received three calls from unknown persons who abused him in filthy language and gave threats to cut his head and his son. It is also stated in the complaint that, on the same day once again he received a similar call from an unknown person demanding to pay money or otherwise going to kill his son. During the course of investigation, accused No.1 was traced as the person who made threatening calls to the complainant, demanding money of Rs.25 lakhs and also threatened the complainant and his son to kill. After filing of the complaint, investigation was conducted and charge sheet was also filed for the offences punishable under Sections 384, 387, 504, 506, 507, 120(B), 109, 201 r/w Section 34 of I.P.C. and Section 3(1)(ii), 3(2), 3(4), 3(5) of KCOC Act. Subsequent to the filing of charge sheet, accused No.1 also filed an application under Section 227 of Cr.P.C. seeking his discharge on the ground that the material produced by the prosecution even after the investigation are not sufficient enough to make out any case against this accused to be

tried for all the above alleged offences. However, the said application came to be rejected by my Predecessor vide orders dated 10.08.2020.

8. Now it is contended by the prosecution that, along with accused No.1, accused No.2 to 6 have been charge-sheeted. Against this accused No.1, there are number of cases pending right from 2013 onwards. He has committed the organized crimes along with the syndicate of accused No.2 to 6. These accused No.2 to 6 are the members of the said syndicate headed by this accused No.1. They are involved in all the organized crimes as defined under the provisions of Karnataka Control of Organized Crime Act, 2000. By staying abroad, this accused No.1 has committed all the offences. This accused No.1 illegally with the help of accused No.2 to 6 has earned sufficient wealth. Since from more than 10 years back prior to filing of this objection, this accused No.1 is involved in more than 7 heinous crimes. Against accused No.2, there are 4 cases; against No.3, there are 6 cases; against accused No.4, there are 5 cases; against accused No.5, there are 3 cases and against accused No.6, there are 2 cases registered. The punishment prescribed for all the offences so alleged against them is more than 3 years imprisonment and fine. This accused No.1 is housed at Hindalaga Jail, Belagavi and he has got a contact with all these accused No.2 to 6. These accused No.2 to 6 are also involved in the commission of the organized crimes.

9. It is further stated in the objection statement that, from the month of February 2018 till August 2018, accused No.1 has used his mobile phone No.9964917807 and called the complainant and demanded him to pay the amount. He gave a life threat to him and demanded 3 times to pay the amount, totally Rs.15,00,000/-. Even in the month of October 2018, this accused No.1 by staying in Hindalaga Jail itself, tried to extract money by giving threat to C.W.59 as he has sold the landed property. He demanded to pay Rs.25,00,000/- as 'Hafta'. Even accused No.1 on 11.03.2019 called from the aforesaid mobile phone to the complainant and demanded to pay the money. So also, he made accused No.2 to call the complainant to pay the money by giving threat. Likewise, series of offences have been committed by this accused No.1 under the provisions of the aforesaid Act, 2000. Accused No.3 to 5 are helping this accused No.1 in calling the victims and demanding the money from them. In the month of January 2018, he also called from his aforesaid mobile number to C.W.47 being a Real Estate Agent and C.W.48 being the Chairman of the Private Company and demanded to pay 'Hafta' of Rs.10,00,000/- and Rs.2,00,000/- respectively. Thus, it is contended that, to various witnesses he has called through the aforesaid telephone number and demanded to pay the money. His UTP Number is mentioned as '2625' as he has been housed at Hindalaga Jail, Belagavi. He is sketching to give threat to the victims and demanding money by giving life threat to them.

10. As could be seen from the records of this case, a crime is registered with Udupi Town Police Station in Crime No.25/2019 having been transferred from Brahmavara Police Station, Udupi Taluk, wherein the complainant by name Rathnakar D. Shetty S/o Dhumanna Shetty lodged a complaint stating that, on 13.03.2019, he received phone call to his Mobile No. 9448888388 at 12 Noon and when he received the call, the unknown person who called him 3 times from the Mobile No. 9742477467 gave a threat to him that if money is not given to him, complainant and his son will be killed. Such a threat was given in Thulu language. Because of this threatening call being received by the complainant, having scared, he lodged a complaint initially before the Brahmavara Police Station, which is being transferred to Udupi Town Police Station as stated above.
11. On reading the entire charge-sheet, during the course of investigation, the Investigation Officer has examined in all 156 witnesses and the Charge-sheeting Officer is C.W.157. That means, the thorough investigation has been conducted by the Investigation Officer and amongst the witnesses so examined by the Investigation Officer, C.W.1 is the complainant who has filed the complaint having received the alleged threatening call to collect or extract money from him by the unknown person by his Mobile number stated above. This complainant has given not only the complaint, but also has given his further statement before the Investigation Officer. C.W.2 is an eyewitness

and he is also a witness for recovery of a CC Camera Footage. C.W.3 is also an eyewitness and he has given his statement before the Investigation Officer on 19.03.2019 and also has given his further statement. Likewise, we find witnesses C.W.4, C.W.5, C.W.6, C.W.7, C.W.12 and other allied witnesses named in the charge-sheet like C.W.17, C.W.18, C.W.19, C.W.20, C.W.23 etc. So, these witnesses have spoken before the Investigation Officer and have given their respective statements about the receipt of the threatening calls as well as experiencing these threatening calls from the accused No.1 and his syndicate members.

12. Coupled with that, the accused No.2 to 6 in this case have given their Voluntary Statement before the Investigation Officer connecting this accused No.1 being the head of the said Syndicate having taken the help of these accused persons in calling the victims on telephone and giving threat to them etc. The materials have been collected by the Investigation Officer during the course of investigation and at this stage, based upon these Voluntary Statements and other materials placed on record, it can be stated that, prima-facie materials are placed on record by the prosecution.
13. In the present case, not only the offences punishable under the provisions of I.P.C. Act are alleged against the accused, but also the provisions under KCOC Act. It is not in dispute that, the object of the KCOC Act is to curtail an organized crime which is causing serious threats to the society which

has no national boundaries and fueled with illegal wealth generated by contract killings, smuggling in contraband, illicit trade in narcotics, kidnappings for ransom etc. The material produced by the prosecution prima-facially establishes that, this accused is the head of this syndicate to which the accused Nos.2 to 6 are also the members indulged in unlawful activities. Even the confession statements recorded under the provisions of KCOC Act, Section 19 of the Act can be taken into consideration as an admissible piece of evidence notwithstanding anything contained under the provisions of any other Acts and procedures, because under Section 19 of the KCOC Act certain confessions made to a police officer not below the rank of Superintendent Police are admissible in the trial.

14. Now the learned Advocate for the accused has relied upon the orders passed in **Criminal Petition No.4976/2015**, wherein the petitioner was granted bail. The alleged offences are under the provisions of I.P.C. and not under the provisions of KCOC Act, it cannot be made applicable to the present case on hand. Similarly, he had relied upon some other reported cases in **(2011)1 SCC 784** , **(2017) 2 SCC 752**, wherein the offences under TADA Act are alleged. Even on perusal of the facts of these two reported cases, they cannot be made applied to the facts of the present case on hand and as such the same are not relied upon. He has also relied upon other reported case laws in **(2018) 16 SCC 10**, **(2018) 11 SCC 458**, **(2005) 5 SCC 294** and other reported case laws as per the memo

citations. It was much argued by the learned Advocate for the accused with regard to the duties of the courts in considering the bail applications by applying its discretion in a judicious manner and not to consider a detailed examination of evidence and elaboration of documentation on merits of the case. However, the principles of law granting or rejecting bail are now well settled by the higher courts in the reported decision **(2005) 8 SCC 21** in a case between **State of U.P. Vs. Amarmani Tripathi C/w State of U.P. Vs. Madhumani Tripathi**, wherein the Hon'ble Supreme Court has held as follows:

**The matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail. While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.**

15. If we consider the above said settled principle of law in granting bail, the material produced by the prosecution clearly shows that, this accused is the prime syndicate

member of an organized crime used to demand money by making threatening phone calls, causing life danger to the complainant and his son. The material produced by the prosecution under the charge sheet also clearly shows that, the offences alleged against the accused are heinous offences not only against the complainant, but against the society and this accused is a proclaimed offender against whom earlier red corner notices were also issued as he escaped from the country and settled at Morocco for a considerable length of time. Since more than 40 criminal cases are still pending against the accused and in most of the cases heinous offences are only alleged, the possibility of the accused going out of bail cannot be ruled out. The material produced by the prosecution clearly discloses that, this accused had created so many passports in different names and once was able to escape from this country with a duplicate passport in some other's name, the possibility of the accused committing similar offences also cannot be ruled out as he happens to be conducting all his activities in an underworld as alleged by the prosecution.

16. No doubt, this court is not constrained to weigh the evidence, documents at this stage on merits. But the severity of the offences alleged, conduct, antecedent and earlier behaviour of the accused etc., shall have to be taken into consideration in considering the bail application filed by the accused. It is also pertinent to note that, my Predecessor had already rejected the application filed by the accused seeking discharge and had arrived at a conclusion that

there are prima-facie grounds and material produced by the prosecution to try this accused for all the alleging offences including the offences under the KCOC Act. So, when there are prima-facie material against this accused for having committed heinous offences and when there are chances of fleeing out of bail and committing similar offences and the alleged offences are against the society at large, the question of granting bail to the accused by using any discretionary power will not arise for consideration. Even the theory of the personal liberty of the accused cannot be applied to the facts and circumstances of the case to grant an order of bail. So, considering all these aspects, it is clear that this accused is not entitled to be released on bail. Accordingly, I proceed to treat point No.1 in the negative.

17. **POINT NO.2:** In the result, I pass the following:

### **ORDER**

Bail application filed by the accused No.1 under Section 439 Cr.P.C. is dismissed.

(Dictated to the Stenographer, transcribed by her on Computer, revised, corrected and then pronounced by me in the open court on this day, the **31<sup>st</sup> day of May 2022**)

**(M.L.RAGHUNATH)**

Prl. District & Sessions Judge,  
Mysuru.

\*JK