

KAMS010056562019



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

Dated this the 12th day of August, 2024

PRESENT

Sri. Ravindra Hegde, M.A., LL.M.,
Prl. Sessions Judge & Special Judge,
Mysuru.

Spl.C/366/2019

Complainant:

State by Udupi Town Police
Station.

(By **learned Special Public Prosecutor**)

Vs.

Accused:

Rajendrakumar S.V. @ Bannanje
Raja and 5 others

Accused No.1:

Rajendra Kumar S.V. @ Bannanje
Raja @ Raja @ Raja Shetty @
Rahim Khalil Khan @ Kumar Raja
Hemant Hegde S/o Late Sundar
Shettigar, aged about 50 years, R/
at Radhakrishna Villa, Baputhota,
Malpe, Udupi.

(By **Sri. B.S.R., Advocate**)

ORDER ON BAIL APPLICATION OF ACCUSED No.1

This is an application filed on behalf of accused No.1 under Section 439 of Cr.P.C., for grant of bail for the offences punishable under Sections 384, 387, 504, 506, 507, 109, 120(B), 201 r/w Section 34 of I.P.C. and Section 3(1)(ii), 3(2), 3(4), 3(5) of Karnataka Control of Organized Crimes Act (hereinafter referred to as 'KCOC Act' for short).

2. It is the case of accused No.1 that, he is produced in this case through Body Warrant on 06.05.2019. He is innocent of the alleged offences and he has been falsely implicated in the case. It is stated that, this is a successive bail application giving more particulars and on different developments and different considerations. It is stated that, Hon'ble High Court of Karnataka had granted bail to accused No.4, 5 and 6 in Criminal Petition No.3476/2023 by order dated 13.10.2023 and Criminal Petition No.1668/2024 by order dated 22.02.2024. Hence, on the ground of parity, this accused is also entitle for bail. It is stated that, earlier complaint was filed against unknown person and name of this accused No.1 was not shown, which creates serious doubt in the case of prosecution. There is a delay in recording the statements under Section 161 of Cr.P.C., which are completely false and concocted. The complainant's statements have been a compilation of improvements and delay in recording the statements is not properly explained. It is stated that, the allegations pertaining to C.Ws.44, 48, 45, 46, 47, 158 and 159 are relating to separate incidents, for which no

separate case was registered and the said delay in disclosing the things creates doubt and shows falsity in their versions. It is stated that, the offences punishable under Section 364A and 397 of I.P.C. are added in the supplementary Charge-sheet, only to further harass the accused and none of the ingredients are attracted in the case. It is stated that, the provisions of KCOC Act are not applicable to the present case and they are invoked without any basis and this accused has no nexus whatsoever with anybody or any accused pertaining to commission of any offence. It is stated that, all the necessary documents and materials are recovered and seized. The presence of this accused for custodial interrogation is not required. It is stated that, the first Charge-sheet is filed for principal offences under Section 384 and 387 of I.P.C., for which the punishment prescribed is upto 3 years and 7 years and the supplementary Charge-sheet offences are not at all attracted. It is stated that, accused No.1 had already undergone nearly about half of the punishment prescribed in the main Charge-sheet offences. In the main Charge-sheet, 157 witnesses are cited and in the supplementary Charge-sheet, 75 witnesses are cited. It is stated that, accused No.1 is ready to abide by all the conditions to be imposed by the Court in the event of grant of bail and prayed to grant him bail.

3. The learned Special Public Prosecutor has filed objections to the application, stating that the application is not maintainable either in law or on facts and is liable to be dismissed. It is stated that, accused No.1 is the Kingpin of the organized crime

syndicate and with the help of his members-accused No.2 to 6, he was extorting money from the rich businessmen. It is stated that, accused No.1's syndicate *modus operandi* is by calling the rich and wealthy businessmen or persons around the State and threatening them with their life and extorting money from them and if they refused to pay the money, the members of criminal organized syndicate would kill them. It is stated that, accused No.1 was arrested for the murder of businessman R.N.Nayak in Ankola Police Station in Crime No.245/2013 and he was arrested outside India and then brought to India. During trial, he was in judicial custody at Hindalaga Jail and at that time, he came in contact with accused No.2 to 6, who were joined to his organized crime syndicate and with their help, accused No.1 continued his unlawful activities through organized crime syndicate. It is stated that, in 10 years, more than 7 cases have been registered against accused No.1, which are all punishable with more than 3 years of imprisonment, wherein cognizance was taken by the concerned Jurisdictional Court. It is stated that, accused No.1 has been convicted in S.C.No.129/2014 and sentenced to undergo imprisonment for life and now he is in Jail. It is stated that, being in judicial custody in S.C.No.129/2014, accused No.1 continued his organized crime activities from the Jail. Learned Special Public Prosecutor has sought rejection of bail to accused No.1, on the ground that, there are prima facie material to show that accused No.1 has committed the alleged offences. It is stated that, accused No.1 is the Kingpin of the organized crime syndicate and also a hardcore gangster involved in number of

crimes since 1990. It is stated that, parity ground is not applicable to accused No.1 as he is the Kingpin for the organized crime syndicate. If he is released on bail, it will send a bad message to the society and there are chances of his abscondence and since he is in the list of hardcore criminals and there is high probity of unrest in the society, it will cause panic in the minds of public.

4. Heard both sides. Perused the records.
5. Now, the points that arise for my consideration are:
 1. **Whether accused No.1 has made out sufficient grounds for his release on bail as prayed ?**
 2. **What order ?**
6. My answer to the above points are:

Point No.1 :: In the **Negative**

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

REASONS

7. **Point No.1:**

It is the case of prosecution that, on 13.03.2019 at 11.45 a.m., the complainant received a call from a unknown number to his mobile No. and complainant was scolded in Tulu language stating that, "why are you not receiving the phone calls" and stating that compliant and his son will be killed if he did not answer the phone call. It is further case of prosecution that, the

said person demanded for money and threatened that if did not give the money, he will be killed and also abused in foul words. In this regard, the complainant lodged a complaint before the SHO of Brahmavara Police Station and later on the point of jurisdiction, case has been registered in Udupi Town Police Station in Crime No.25/2019. After completion of investigation, Investigating Officer has filed Charge-sheet against the accused for the offences punishable under Section 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, 2000 and subsequently, as per Section 173(8) of Cr.P.C., additional Charge-sheet was filed for the offence punishable under Section 364(A) and 397 of I.P.C. The allegations made against this accused No.1 are that, while he was in Hindalaga Jail for having convicted in S.C. No.129/2014 for imprisonment of life, he having come in contact with accused No.2 to 6, continued his unlawful activities through his members of organized crime syndicate. In continuation of his such acts, accused No.1 made a threatening call from his mobile phone No. to mobile of complainant to give 'Haftha' and accordingly collected Rs.5,00,000/- on 3 occasions, totally collected Rs.15,00,000/- through his associates in the house of complainant. In addition to this, as stated above, it is alleged that, accused No.1 by hatching criminal conspiracy in the Jail along with other accused persons, again made threatening call to the complainant and when he did not receive the call, on 13.03.2019, through accused No.2, he made a life threatening call.

8. On looking to the documents produced by the learned counsel for accused No.1 and also the prosecution records, it is seen that, accused No.1 was in judicial custody and is being produced in this case on Body warrant on 06.05.2019 and is being produced before this court through VC even thereafter till now. Admittedly, accused No.1 has been convicted by Principal District and Sessions Judge and Special Judge, Belagavi in S.C. No.129/2014 and is sentenced to life imprisonment. It is the case of prosecution that, while he was in Jail in the said case undergoing sentence, he along with associates i.e. accused No.2 to 6 continued unlawful activities being members of Organized Crime Syndicate and the present complaint is the result of such Organized Crime Syndicate.

9. Learned counsel for accused No.1, during the course of his arguments, vehemently argued that, complaint did not disclose his name and only after recording the statements of witnesses i.e. C.Ws.44, 45, 46, 47, 48, 158 and 159 under Section 161 of Cr.P.C. belatedly and also on the basis of further statement of complainant, he has been included as accused No.1. He further argued that, provisions of KCOCA are not applicable to the present case as none of the ingredients are satisfied and there is no nexus between accused No.1 and the commission of crime. He further argued that, long incarceration and pre-trial detention may be considered for the purpose of bail, as the principal offences alleged in the first Charge-sheet are under Section 384 and 387 of I.P.C., which are punishable with imprisonment for 3

years and 7 years and the accused No.1 has already undergone nearly half of the punishment prescribed. The other alleged offences under I.P.C. are punishable upto 2 years imprisonment, which period is already over. He argued that, totally 232 witnesses are cited in the Charge-sheet and for completion of trial, it takes considerable time. He further argued that, accused No.4 to 6 have already been released on bail and hence on the ground of parity, this accused No.1 is also entitle for bail. He further argued that, in a similar case in Spl. C.C. No.588/2014, this accused No.1 has been released on bail by the Principal City Civil and Sessions Judge, Bengaluru vide order dated 16.07.2024.

10. On the contrary, learned Special Public Prosecutor strongly opposed to grant bail to accused No.1, on the ground that, he is the Kingpin of the organized crime syndicate and he is a hardcore gangster involved in number of crimes since the year 1990. He further argued that, accused No.1 has already been convicted in a similar case in Spl. Case No.129/2014 by the Pri. Sessions Judge and Special Judge, Belagavi and there are around 40 cases registered against him, among them, some cases are registered for the offences under KCOCA. He argued that, since the accused No.1 is charge-sheeted for the offence under the KCOCA, he is not entitle for bail in view of Section 22(4) of the Act. He further argued that, accused No.1 is a Rowdy Sheeter in Udupi, Malpe, Barke Police Stations and as such, if he is released on bail, it will cause panic in the minds of public and it will pass a

bad message to the society and there is likelihood of abscondence.

11. On looking to the records, order passed in Spl. C.C. No.588/2014 produced by learned counsel for accused No.1, it is seen that, in the said case which is registered for the offences punishable under Sections 504, 506, 120B, 399, 400, 402 r/w Section 149 of I.P.C. and Section 66A of I.T. Act and Sections 3, 8, 25(1B)(1A)(1C) of Arms Act and Section 3 of KCOC Act, bail has been granted by the Hon'ble Principal City Civil and Sessions Judge, Bengaluru, subject to conditions. It is seen from the documents produced by learned counsel for accused No.1 that, accused No.4 to 6 have been granted bail by the Hon'ble High Court with certain conditions. Though it is alleged that statement of C.Ws.44, 45, 47, 158 and 159 about they receiving similar threatening calls from accused No.1 and also extortion are relating to separate incidents and would not be relevant in this case, same cannot be decided at this stage.

12. The learned counsel for accused No.1 has relied on the decision reported in **(2003) 2 SCC 708, *Akhilali Jehangir Ali Sayyed Vs. State of Maharashtra***, wherein the Hon'ble Supreme Court has held that, when one accused placed in the same situation was granted some order, the same benefit cannot be denied to the other accused. However, this decision is not on bail application and is regarding the sentence. In the decision reported in **(2020) 18 SCC 441, *Abhishek Tripathi Vs. State of Uttar Pradesh***, Hon'ble Supreme Court has held that, when

the bail was granted to co-accused against whom same allegations are raised, there is no justification in denying bail to the appellant. In another decision reported in **(2010) 15 SCC 529, Avtar Singh Vs. State of Punjab**, the Hon'ble Supreme Court has held that, when some of the accused have already been granted bail, the appellant can also be directed to be released on bail. In the decision of the Hon'ble Supreme Court in **Special Leave to Appeal (Cri.) No. 1830/2023, Shahrukh @ Banti Vs. The State of Madhya Pradesh**, the Hon'ble Supreme Court has considered the word 'parity' and held that, it could not be understood in a hyper-technical way. It is held that, "**once the charge sheet is filed and the co-accused released on bail, the only question that falls for consideration is as to whether the continued detention of one accused was necessary despite the release of the co-accused**". In the decision reported in **2021 SCC OnLine Bombay 1805, Iqbal Ahmed Kabir Ahmed Vs. State of Maharashtra**, the Hon'ble High Court, by considering the fact that recording of evidence is yet to commence and is very unlikely that the trial would be concluded in a reasonable period and appellant has already undergone minimum term of imprisonment prescribed for the offences, has granted bail. In another decision reported in **(2020) 11 SCC 648, Prabhakar Tewari Vs. State of Uttar Pradesh and another**, the Hon'ble Supreme Court has held that, "**though the offence alleged is grave and serious and there are several criminal cases pending against the**

accused, these factors by themselves cannot be the basis for refusal of prayer for bail”.

13. Though the above said decisions say about release of the accused on bail when co-accused are released on bail, in the present case, the accused No.1 is the Kingpin and the Leader of the Organized Crime Syndicate of the accused persons, according to the prosecution. According to the prosecution case, the accused No.1, at different times, in different team, is involved in extortion and giving threat calls for the purpose of extortion and taking 'Hafta'. Only after complainant giving complaint against unknown person, the other witnesses who had also suffered such threats and have paid money, are stated to have come forward to say about the acts of accused No.1 and other accused.

14. On looking to serious allegations made against accused No.1 and also as the accused No.1 is stated to have been involved in many such cases and also he is already sentenced to undergo life imprisonment in one of the matter in which the offence alleged was even under Section 302 of I.P.C., granting of bail to the accused No.1 may not be proper. On looking to the nature of contacts, which accused No.1 is stated to be having with several criminal elements and as accused No.1 is said to have hatched conspiracy while under going imprisonment and arranged commission of offence and is shown to be boss of such Crime Syndicate, this is a fit case, wherein, despite release of other co-accused, continued detention of Accused No.1 is necessary. If the accused No.1 is released on bail, there is

possibility of the witnesses being threatened or the witnesses fearing to give evidence. Anyhow, accused No.1 is stated to be already undergoing sentence for life imprisonment in another matter and even if he is granted bail, he will not be released. Hence, in the peculiar facts and circumstances of the case, at this stage, it is not proper to grant bail to accused No.1. Accordingly, **point No.1** is answered in the **Negative**.

15. **Point No.2:**

For the discussions made on above point, the following order is passed:

ORDER

Bail application filed on behalf of accused No.1 under Section 439 of Cr.P.C., is dismissed.

(Dictated to the Stenographer Grade-1, transcribed by her on Computer and after corrections, signed and then pronounced by me in open Court on this the **12th day of August, 2024.**)

(Ravindra Hegde)

Pr. Sessions Judge & Special Judge,
Mysuru.

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