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**IN THE COURT OF THE PRL.DISTRICT & SESSIONS JUDGE,  
AND SPECIAL COURT, UTTARA KANNADA, KARWAR.**

**DATED THIS THE 22<sup>nd</sup> DAY OF JULY-2024**

**SPECIAL CASE NO: 33/2024**

**PRESENT:**

**Sri. D.S.Vijaya Kumar,**  
*B.Sc., LL.B.,*  
Prl. District and Sessions Judge,  
Uttara Kannada, KARWAR.

**COMPLAINANT:**

The State of Karnataka  
Represented by Spl. Public Prosecutor,  
Uttara Kannada, Karwar.  
(Karnataka Lokayuktha police)

**Vs.**

**ACCUSED  
APPLICANT:**

Puttaswamy S, S/o Siddaiah,  
Assistant Director Office of  
Assistant Director Land Records,  
Ankola.

(By **Sri.G.T.Naik**, Advocate.)

**ORDERS ON APPLICATION U/S 227 OF CR.PC.**

This is an application filed under Section 227 of Cr.P.C., by the accused seeking for his discharge from the charges leveled against him for the offences punishable under Section 7 (a) of Prevention of Corruption Act, 1988.

2. The brief averments made in the application are that, the police have filed charge sheet against the accused for the offences punishable under Section 7(a) of Prevention of Corruption Act, 1988. There is no work of the complainant was pending before the accused. The accused did not demand for any bribe and he did not receive any amount from the complainant. The voice records produced by the IO in demonstration Panchanama is not the voice of the accused and the accused never discussed with the complainant and he never made any demand. The trap Panchanama is not proper and it creates lots of doubts in the case of the prosecution. The accused never called the complainant to Hotel Ankola international floor No.3. When the accused went for his dinner to the Ankola International Hotel, the complainant along with some other persons came to the Hotel and forcefully made him to touch the money which is brought by the persons who came with the complainant. Further forcefully they have created many more things at the spot and the police officers caught both palms of the accused in their naked hands and there after they have washed the hands of the accused but there was no colour change. But after that the police officers touched the water and created the water to be changed into colour and in the Panchanama it is falsely written that the water turned its colour after the wash of the hands of the accused. The IO not followed the guidelines issued by the

Karnataka Vigilance Department to the Investigation Officers to Investigate the case. The IO did not conduct preliminary enquiry about the complaint and complainant to find out the truth in the complaint. There are so many contradictions and lacunas in the charge sheet filed by the prosecution against the accused. Hence, on these grounds the accused has prayed for allowing the application by discharging him for the charges leveled against them.

3. The learned Special Public Prosecutor representing the State has filed detailed objections contending that the application filed by the accused is not tenable either in law or the facts and circumstances of the case, and as such, it deserves to be dismissed. As per the complaint filed by the complainant- one Ramesh Narayan Naik, the accused who was working as an ADLR in Survey Department at Ankola, has demanded a bribe of Rs.50,000/- from him for effecting the division of the land and received Rs.5,000/- from him when he met the accused. Since the complainant was not willing to pay the bribe, reported the matter to the Lokayukta Police and filed a complaint on 01.06.2023, which was came to be registered at Lokayukta P.S. Crime No.1/2023. After transmitting the FIR to this court, the Investigating Officer proceeded to investigate the crime. Thereafter, ACB has laid a trap on the accused on 06.01.2023

itself, after conducting the preliminary panchanama in the office, and proceeded to the place of offence with the panchas and the police staff. The accused was subsequently apprehended by the I.O in the said Hotel on receiving the amount of Rs.45,000/- of bribe money from the complainant. The I.O has also recovered the amount Rs.45,000/- of the bribe money from the accused which he had received from the complainant and also the relevant records connected to the official work of the complainant. The detailed trap panchanama was drawn by the I.O on the very same day itself. The voice Analysis report, Call records and the Chemical analysis report supports the case of the prosecution. It is submitted that there since there is a prima-facie case against the accused, so as to proceed against him according to the law, the I.O., has submitted the charge sheet before this Court against the accused. At this stage of proceedings, the accused cannot seek the mini trial, and the trial on merit to be proceeded with. Other contentions raised by the accused to be tested at the time of trial only. Hence, prayed to dismiss the application of accused.

4. Heard arguments of learned Public Prosecutor for the respondent. The learned Counsel for the accused/applicant has also filed written argument.

5. In the circumstances, following points arise for determination:-

(1) Whether the applicant/ accused is entitled for the relief of discharge as sought for ?

(2) What Order?

6. My findings to the above points are under:

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

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

### **REASONS**

7. **Point No.1**: I have perused the application, objections filed by the learned Special Public Prosecutor and documents available on record. The accused having filed this application seeking an order of discharge from the offence under Section 7(a) of the Prevention of Corruption Act, 1988 (Amended by Act No. 16/2018), the principle which governs the application under Section 227 of the Cr.P.C., is that only when the charge sheet material even if considered at its face value does not make out the charge sheeted offences, only then the charge can be held groundless and the accused can be discharged from the offence. This being the position the prosecution case is that the accused demanded a bribe of Rs.50,000/- from the complainant /C.W-1 when he met the accused in connection with

the application he had filed for issue of sketch in respect of land belonging to him bearing survey No. 140 measuring an extent of 2 acre 13 gunta 8 anna. After the accused allegedly demanded a bribe of Rs.50,000/- it is stated that he finally agreed for a sum of Rs.40,000/-. The complainant was not willing to pay the bribe and hence filed a complaint and thereafter the accused was caught red handed while he was accepting Rs.15,000/- towards advance out of Rs.40,000/- that he had finally agreed for doing the work of the complainant. Before lodging complaint, the complainant/C.W-1 has recorded the conversation with the accused wherein the accused has demanded for bribe and after negotiation has reduced the bribe amount to Rs.40,000/-. The complainant has produced the CD containing the said conversation along with the complaint and in the entrustment mahazar the conversation between the complainant and the accused that has taken place prior to lodging complaint has been written in verbatim. After the entrustment proceedings the trap has been made and the accused has received the Phenolphthalein smeared tainted currency of Rs.15,000/- from the complainant by making demand. The Sodium Carbonate test which was conducted during trap panchnama has turned pink in colour thereby confirming that the accused has received the tainted bribe amount. The conversation which took place between the complainant and the accused during the trap proceedings has

also been reduced into writing in verbatim in trap panchnama. Besides the sodium carbonate solution which tested positive during trap proceedings has been sent for chemical analysis and the report of the chemical analysis is placed on record which also confirms that the hand wash of the accused contains Phenolphthalein. Apart from the same the currency notes recovered from the accused at the time of the trap proceedings has tallied with the currency notes that had been entrusted to the complainant at the time of the entrustment mahazar. The pant of the accused in which the accused had kept the bribe amount after he had received has also been subjected to chemical analysis and the chemical analysis report shows that the same has also tested positive for Phenolphthalein. Apart from this the voice recording during trap panchnama and earlier to complaint have been subjected for forensic analysis and the report has been obtained. The said report from forensic science lab, Hubli states that the questioned voice of the accused in both the voice recordings are similar to his sample voice. Therefore, the voice analysis report has also confirmed that the conversation which is reduced into writing in the entrustment and trap mahazars contains the accused's voice wherein the accused has demanded bribe for doing his official work. Further there is sanction order issued by competent authority for prosecuting the accused. Perusal of the same shows that the

sanctioning authority has applied its mind and considered the matter in detail and given sanction. As such there is strong prima-facie material against the accused for the offence under Section 7 of the Prevention of Corruption Act, 1988 (As amended under Act No. 16 of 2018).

8. In the light of the above, I have considered the grounds urged by the accused/applicant in the present application. In the application the accused contends that there was no work of the complainant pending before him and he has not made any demand for bribe and has not received any bribe amount. That the voice recording produced by the IO do not contain his voice and he has never discussed anything with the complainant and has not made any demand. That he has not asked the complainant to visit him at Ankola International Hotel. He was forcefully made to touch the money in the hotel by the persons who had accompanied the complainant and thereby they have created documents and other things at this spot by using force. After making him forcibly touch the money, the police made him wash his hand. Thus he has claimed that he is innocent of the offence.

9. All the aforesaid grounds urged in the defence are the facts to be proved by the accused at the trial. At this point of time, the above said defence cannot be accepted at its face

value. Whereas there is copious material on the side of the prosecution which make out the strong prima-facie case against the accused. The same will have to be tested at the trial. At this point the aforesaid evidence of the prosecution cannot be said to be groundless at the face value. Hence, the contention of the accused/applicant that he is entitled to an order of discharge is erroneous and not tenable. Consequently point No.1 is answered in Negative.

10. **Point No.2:** On the above findings, I proceed to pass the following:

**:ORDER :**

The application filed by the applicant/accused under Section 227 of Cr.P.C. for discharging him for the offences punishable under Section 7(a) of Prevention of Corruption Act, 1988 is hereby dismissed.

(Pronounced by dictation to the Stenographer in the open court, typed by her, revised and corrected by me and signed on this date the 22<sup>nd</sup> Day of July-2024.)

**(D.S.Vijaya Kumar)**  
Prl.District and Sessions Judge  
(Special Judge),  
Uttara Kannada, Karwar.