KABC010209362024

IN THE COURT OF THE XXIII ADDL.CITY CIVIL & SESSIONS JUDGE & SPECIAL JUDGE (P.C. Act) BENGALURU (C.C.H.No.24)

Dated: This the 4th day of October, 2024

:PRESENT:

K.M. RADHAKRISHNA, B.A.LL.B.,
XXIII Additional City Civil and Sessions Judge
cum Special Judge (P.C. Act),
Bengaluru Urban District, Bengaluru City.

CRIME No.118/2024

Complainant :	The State of Karnataka by High Ground Police Station, now investigating by SIT, CID (FIU) Squad. (rep. by the Special Public Prosecutor)
	- V e r s u s -
Applicant / Accused No.: 2	Sri. Srinivasa Rao Kaki, S/o. Subramanyam Kaki, aged 32 years, No.B-1604, Vishnavi Nakshatra Apartment, Near Yeswanthapura Railway Statin, Yeswanthapura, Bengaluru – 560 022. (By Sri. Mohamed Rizwan Ahamed, Adv.)

3 Sri. Sathyanayana Itakari,
S/o.Bapu Itakari,
aged 40 years,
R/a. No.22-66/1-1, Sunnambattivada Road,
Mansirayal Taluk and Dist.
Telangana State – 504 208.

(By Sri. I.S. Pramod Chandra, Advocate)

6 Sri. Parushuram Durgannanavar,
S/o.Ghanavanthappa,
aged 42 years,
Accounts officer,
Sri.Karnataka Maharshi Valmiki Scheduled Tribes Development Corporation Limited,
Bengaluru.

(By Sri. Sudhanva D.S., Advocate)

7 Sri Chandra Mohan Kukthapuram,
S/o. Gopal,
Aged about 36 years,
R/at Shobha Dream Garden
Kannuru Road, Mitaganahalli,
Bellahalli,
Bengaluru- 562 149.

(By Sri. Yogesh M.T., Advocate)

8 Sri. Jagadish G.K.
S/o. Krishnappa,
Aged about 58 years,
R/at NWC 201/A Ganesha Colony,
Bhadravathi – 577 301.

(By Sri. Yogesh M.T., Advocate)

9 Sri Teja Thamatam @ Theja Naidu,
S/o. Late Anjaneyalu, aged 40 years,
R/o.o.7, 8th A Cross, N.S. Palya,
BTM 2nd Stage,
Bengaluru- 560 076.

(By Sri. Sudhanva D.S., Advocate)

Crl.Misc. No.8724/2024

Petitioner / Accused No.	4	Sri. Sai Teja Reddy Devarapalli @ Shivakumar, S/o. Srinivsula Reddy Devarapalli Aged about 29 years, R/at G5, 1st floor, Block-A, Pragathi Cyashial Apartment, Pragathi Nagar, Nijam Pet, Hyderabad-500 090. (By Sri. G. Hanumanthareddy, Advocate)

Crl.Misc. No.7453/2024

Petitioner / Accused No.	11	Sri. Nageshwar Rao, S/o.Sathya Narayana, Aged about 46 years, No.37, 10th Cross, Telecom Layout, Jakkuru, Bengaluru. R/a. Krishnanagar Camp, Yarangalli Post, Ballari Taluk and District. (By Sri Shankar P. Hegde Advocate)

- V e r s u s -

Common Respondent :	State of Karnataka by (High Ground Police Station) now investigating by CID Police, Bengaluru-560 006. (By the Special Public Prosecutor)

COMMON ORDERS

The 2nd, 3rd, 6th, 7th, 8th and 9th accused have filed independent applications, accused No.4 and 11 have filed separate petitions under Section 439 of the Code of Criminal Procedure for grant of bail relating to offences punishable under Sections 120B, 409, 420, 467, 468, 471 of the Indian Penal Code (for short the 'IPC') and Section 13(1) r/w. Section 13(2) of the Prevention of Corruption Act, 1988 (for short the 'PC Act') in Crime No.118/2024 of the High Grounds police station, Bengaluru now investigating by the CID police.

2. The prayer for grant of bail is seriously opposed by the learned Special Public Prosecutor with a request to reject applications / petitions for reasons set-forth in his written objections and on the strength of the accompanying report submitted by the investigating officer.

3. Heard arguments from both side.

4. The Point for consideration is :

1. Whether accused No.2, 7 and 8 11 have made out grounds for grant of the bail?

2. Whether accused No.3, 6, 9 and 11 are entitle for the bail?

5. My answer to the 1st point is in the negative and 2nd point in the affirmative for the following:

REASONS

6. It is seen that, one A. Rajashekar the General Manager of Karnataka Maharshi Valmiki Schedule Tribes Development Corporation (for short the Corporation) is the de-facto complainant. On his complaint, the High Grounds police at Bengaluru have got registered the F.I.R. in Crime No.118/2024 against 6 top officials of the Union Bank of India, M.G. Road Branch, Bengaluru with the following allegations:

> *On 24.2.2024 the Corporation has transferred its account bearing No.520141001659653 at the Union Bank of India of Vasanth Nagar to the branch of the same bank at the M.G. Road, Bengaluru. This account was to operate jointly by its Managing Director (A-5) and Accounts Officer (A-6). The bank officials took the authorisation with the signatures of A-5 and A-6 for operation of the account. A total sum of Rs,187.33 Crores was got transferred from various accounts of the Corporation in other banks including the State Treasury No.2 to the transferee account. Based*

> *on the created overdraft facilities and related forged documents the bank officials have transferred Rs.94,73,08,500/- out of Rs.187.33 Crores to various accounts of private persons without taking any precautionary measures and verifying the documents before the disbursement of the amount. After the 5th accused has noticed the same to the bank officials, they have got remitted Rs.5 Crore to the account of the Corporation out of the disbursed amount. This fraud took place due to the negligency of the bank officials who have caused the substantial loss to the Corporation.*

7. The responsibility of the investigation was taken over by the CID police. Having investigated the crime in part, the CID Police have invoked the provisions of the Indian Penal Code so also the PC Act and filed the charge sheet against 12 accused persons to the exclusion of the bank officials and still continuing the investigation. Admittedly, the 3rd accused is the Chairman of First finance co-operative society at Hyderabad. The charge sheet allegations in brief are that:

> *Accused No.1 to 4, 7 to 12 are private persons. Accused No.5 and 6 are the Managing Director and the Accounts officer of the corporation respectively. Accused No.1 to 4, 7 to 12 along with A-5 and A-6 have conspired together to knock off the Crores of rupees belongs to the Corporation and gain wrongfully. They have created the forged letters, cheques, RTGS*

requests, Board resolution with forged signatures and fraudulently got transferred Rs.89.62 Crores to 18 fake accounts in the First finance co-operative society at Hyderabad. In turn, they have routed this amount through more than 300 accounts and fraudulently mis-appropriated the same in different way by causing huge loss to the Corporation and the Government.

8. Accused persons before the court for grant of bail are facing the individual allegations as hereunder:

2nd accused : He is the part of the conspiracy. Being an associate, he has sheltered the 1st accused in his house at Yeswanthpur and permitted him to use the computer system prior to committing the fraud. He along with accused No.1, 11 and 12 has created the rubber stamp seals containing the signatures of accused No.5 and 6. He is also responsible for the transfer of Rs.89.62 Crores in question. He has purchased 1 k.g. gold, a jeep campus car bearing No.KA 70 N 0909 out of the amount belongs to the Corporation. He has helped in creating the fake documents and get transfer the amount in question. He has assisted the 1st accused to purchase the gold and cars.

3rd accused : Being the Chairman of the First finance co-operative society has opened 18 fake accounts therein in collusion with accused No.1 and others. Got transferred Rs.89,62,99,500/- directly from the account of the Corporation to those 18 accounts to gain the commission. Routed the said amount through various accounts standing in the names of Traders, Businessmen and other public enabling the 1st accused to get it return by way of kick back. He had received the commission of Rs.68 lakh at the rate of 2% apart getting of Rs.1.5 Crore to the account of his wife along with considerable amount therein belongs to the Corporation.

4th accused : Previously he was an employee of the Axis Bank at Hyderabad. Presently working at HTL Global Solutions (India) Pvt. Ltd. He joined the hands with accused No.1 and 7 and became part of the conspiracy. Created the fake documents. He projected himself as Shivakumar the employee of the Corporation. Substituted his photo in the Aadhar card of said Shivakumar apart creating his official ID card and other documents. Based on those documents, he has impersonated the official Shivakumar and played the major role in getting transfer of the amount. He received Rs.40 lakh cash from the 1st accused.

6th Accused : He is an Accounts officer of the Corporation and part of the conspiracy hatched by accused No.5 and others. Helped in transferring the money in question to 18 fake accounts. Received Rs.25 lakh.

7th Accused : Being the part of conspiracy, he along with the 8th accused has created the forged documents by fraudulent acts. Usurped the public money to enrich. On being introduced to accused No.1. He has acted as an agent between the Bank and other accused persons particularly accused No.1 and 5. He played the crucial role in transferring Rs.89.62 Crores from the account of the Corporation to various accounts of others. He had received Rs.2.19 Crores presently laying not only in his account but also the accounts of his family members apart withdrawing Rs.10 lakh from Global Solutions (India) Pvt.Ltd. He has purchased golden ornaments worth Rs.25 lakhs along with accused No.9 from Susheel Jewels at Kolar.

8th Accused : Accused No.7 has introduced him to the 1st accused. Being the part of conspiracy, he carried some created documents provided by accused No.1 and handed over to the Bank Manager Suchismitha including the e-mail and phone number of accused No.5. He played his own role in the matter of transferring the money. He had received Rs.50 lakhs from accused No.1. He has purchased an Innova car worth Rs.38 lakh withdrawn from the account of accused No.9. In all he is the beneficiary of Rs.88 lakhs.

9th Accused : He is the joint owner of Ramkarthik project (Layout construction company) along with his wife. He got transferred Rs.16.38 Crores out of the amount in question to various accounts of himself, his company and family members at the instance of accused No.1 and 7. He returned the amount to the 1st accused after withdrawing in the form of kickback and took the commission of Rs.65 lakhs.

11th Accused : He is known to the 1st accused and relative of the 12th accused. He is the part of a conspiracy. Himself and the 12th accused have met the 5th accused Managing Director of the Corporation at Hotel Shangrila in Bengaluru. With the help of the 5th accused, he got introduced the bank officials. He is also responsible in getting transfer of Rs.89.62 Crores from the account of the Corporation. Illegally gained Rs.1.50 Crores from the 1st accused.

9. The afore-referred accused persons denies allegations made against them and claims that, they are innocents. Their respective counsel while touching the merits of the case in depth have advanced their arguments and urged for grant of bail on various grounds. They have expressed the readiness of accused persons to abide any conditions which may be imposed by the court in the event if the bail is granted. They have undertaken to ensure their

appearance either before the court or the investigating agency as and when requires to extend the needy co-operation either in the matter of further investigation or for the trial as the case may be. On the contrary, the learned Special Public Prosecutor has re-iterated the charge sheet allegations and argued resisting the grant of bail with the apprehension that, accused persons are likely to tamper with the prosecution evidence, flee away from the justice and non co-operation in respect of the remaining part of the investigation.

10. The rival contentions are placed on record. Needless to say that, it is the stage where the court is supposed to decide the entitlement of bail or otherwise rather than the merits of the case. As held and guided by the Hon'ble Apex Court in the cases of Prashanth Kumar Sarkar Vs. Ashish Chatterji and another reported as **(2010) 14 SCC 496 (DB), (2005) 8 SCC 21** in the case of Uttar Pradesh Vs. Amaramani Tripati, the following are the yardsticks to keep in mind before considering the prayer for the bail.

a) Reasonable grounds to believe the commission of an offence
b) Nature and gravity of an offence
c) Severity of punishment in the event of conviction
d) Possibility of absconding and fleeing away

e) Character and behaviour of the accused i.e. position and standing

f) Possibility of influencing the prosecution witnesses.

11. Here, the transfer of Rs.89,62,99,500/- from the account of the Corporation at the Union Bank of India, M.G. Road branch to 18 accounts in the First finance co-operative society on the basis of created and forged documents and its subsequent disbursement to more than 300 accounts of various persons is not at all in dispute. As per papers placed before the court, the investigating agency is informed to have already recovered Rs.51,11,64,212/- including the gold worth Rs.11,70,33,120/-, the Mercedes Benz Car worth Rs.1.2 Crore and Lamborghini Car worth Rs.3,31,19,166/- during the investigation from accused No.1, 2, 5, 7 and 8.

12. The creation of documents like forged letters, cheques, RTGS requests and overdraft facilities seen to have become the basis to get transfer the amount in question. Prima-facie the active involvement of accused No.1, 2, 4, 7 and 8 in creating the fake and forged documents before getting trasnfer of the amount is forthcoming. The photocopy of the 4th accused substituted on the Aadhar card of one Shivakumar the employee of the Corporation placed on record, the signatures belongs to officers of the Corporation upon the rubber stamp seals alleged to have created by the

2nd accused at the instance of the 1st accused bears considerable force.

13. The factual circumstances emanating from the discussion herein before prima-facie reveals the reasons to believe that, accused No.2, 4, 7 and 8 along with 1st accused have become successful in getting transfer of Rs.89.62,99,500/- and subsequently got routed the same through various accounts of some companies, businessmen and other public so as to get it return by way of hit back. As mentioned already, Rs.51,11,64,212/- is already recovered by the investigating agency out of the total amount. No doubt, the investigating agency has submitted the charge sheet as a first part. So far as the remaining amount and the possible involvement of various persons including the bank officials, the officials of the Corporation and the background is concerned, admittedly the investigation is under progress.

14. The factual discussion reflects at the outset the modus operandi adopted by accused No.2, 4, 7 and 8 along with accused No.1 so also the gravity and seriousness of the offence systematically appears to have committed. Thus the possibility of absconding, fleeing away from justice, influencing the witnesses by them cannot be ruled out. In the situation of these peculiar circumstances and having

relied on the authorities of the Hon'ble Apex Court in the case of Central Financial Services Ltd. Vs. NCT of Delhi reported as **(2022) 13 SCC 286** and **(2013) 7 SCC 466** in the case of Nimmagadda Prasad Vs. CBI, I am inclined to sustain the contention of the learned Special Public Prosecutor in part that, the continuation of custody to accused No.2, 4, 7 and 8 is a matter of necessity at least till conclusion of the rest of the investigation. In the event if the bail is granted, the possibility of derailing the investigation, destruction of the evidence and obstacle in the matter of ensuring an effective investigation cannot be ruled out. Therefore I am to hold that, accused No.2, 4, 7 and 8 cannot be made entitle for the bail at this stage.

15. It appears that, the involvement of accused No.3, 9 and 11 in creation of fake and forged documents is very remote. Prima-facie the entry of the 3rd accused into the picture only on transferring of the amount into 18 accounts of his First finance co-operative society, the entry of the 9th accused on subsequent transfer of certain amount to his bank account so also accused No.11. Similarly the 6th accused who is the Accounts Officer of the Corporation facing the allegation of conspiracy and receipt of Rs.25 lakh. But so far, no recovery is made from him. At this stage, the material on record prima-facie reveals no reasons to believe the allegations against him since his signatures are noticed

to have been forged. It does not mean that, they are innocents but needs to decide their involvement in due course.

16. Accused No.3, 6, 9 and 11 were subjected to the custodial interrogation for a considerable length of time subsequent to their arrests on 4.6.2024, 31.5.2024, 19.6.2024 and 4.6.2024 respectively. Thereafter, they have been in the judicial custody. No doubt, alleged offences against them are non-bailable in nature and carries the imprisonment of less than 10 years except the offence punishable under Section 409 of the Indian Penal Code. No recovery is seen to have made from accused No.3. He having admitted the laying of Rs.7.5 Crores in the frozen account of his society has expressed his no objection to recover. The 9th accused at para-9 of his petition admits the transfer of Rs.16,38,00,000/- from the First finance co-operative society to the account of his project called Ramkarthik Company but claims to be unaware of the illegality. As per papers on record, the 9th accused in turn has transferred the said amount to the accounts of different persons at Mumbai and subsequently handed over the said amount in cash after getting withdrawal through the concerned account holders. Similar allegation is facing by the 11th accused. In the circumstances, their contention that, they are unaware of the alleged illegality is a matter to decide in due course.

17. The peculiar facts of this case does not indicate the requirement of accused No.3, 6, 9 and 11 for the custodial interrogation pertaining to the remaining part of an investigation under the progress. As reflected by the prosecution in its objections, the remaining amount yet to recover is under the frozen accounts of various persons. Having considered the similar situation, the Hon'ble High Court has by its order dtd.5.9.2024 in Crl.Petn. No.6372/2024 enlarged the 12th accused on conditional bail. No criminal antecedents are noticed against accused No.3, 6, 9 and 11. Accused No.6 and 9 are admittedly the permanent residents within the territorial limits of this court. Accused No.3 though he is from the Hyderabad informed to have been possessing the movable and immovable properties. The 11th accused is the resident of Bellary district. Moreover, the allegations made against them are based on the documentary evidence. Hence, no possibility of tampering the evidence, fleeing away and influencing the prosecution witnesses at their hands would arise.

18. In the light of the above discussion and having got strengthened from the proposition of law laid down by the Hon'ble Apex Court in Manish Sisodia's case, so also the Authority reported as **2023 SCC OnLine SC 903** in the case of Ganesh Shivakumar Sagar Vs. State of Gujarat, I am of

the considered opinion that, the grant of conditional bail to accused No.3, 6, 9 and 11 would not either affect the remaining part of the investigation nor prejudice the interest of the prosecution in any manner. Rather, the intended conditions could ensure their ever availability for the trial and meet out the apprehension of absconding, influencing and fleeing away from justice etc. Even otherwise it is made clear that, if the future acts of these accused persons are likely to affect the interest of the prosecution or obstacle to the further investigation, the hands of the investigating agency would be free to seek cancellation of the bail at any stage of the proceedings. Hence, point No.1 is answered in the negative and point No.2 in the affirmative. Accordingly, I pass the following:

ORDER

The applications filed under Section 439 of Cr.P.C. on behalf of accused No.2, 7, 8 and the petition in Crl.Misc. No.8724/2024 filed on behalf of the 4th accused are rejected as devoid of merits.

Applications under Section 439 of Cr.P.C. filed on behalf of accused No.3, 6, 9 and the petition in Crl.Misc. No.7453/2024 filed on behalf of accused No.11 are allowed. They are enlarged on bail on their executing personal bonds for Rs.10 lakhs each with one surety for likesum respectively.

This order is subjected to the following:

: CONDITIONS:

1. Accused No.3, 6, 9 and 11 shall not indulge in any offences in future.

2. They shall not influence the prosecution witnesses nor shall destroy the crime related evidence in any manner.

3. They shall ensure their appearance either before the investigating agency and extend their co-operation for the purpose of an investigation or before this court for the purpose of the trial as and when directs.

4. They shall not leave the Country without prior permission of the Court.

5. They shall surrender their respective passports to the investigating agency until conclusion of the remaining part of the investigation. In case if they does not

possess the passports, they shall file affidavits before the investigation officer to that extent.

In the event, if violates any of these conditions, the investigating agency can seek the cancellation of bail at any stage of the proceedings.

The original of this order shall be kept in Crime No.118/2024 and true copies thereof in Crl.Misc. Nos.7453/2024 and 8724/2024.

(Dictated to the Steno Gr.1 directly on computer, computerized by him, corrected, signed by me and then pronounced in the Open Court on this the 4th day of October, 2024).

Sd/- 4/10/24
(K.M.RADHAKRISHNA)
XXIII Addl.City Civil & Sessions Judge
& Special Judge (PCA), Bengaluru.

Advocate for the petitioner is present.

The operative portion of the separate common order is pronounced in the open Court as hereunder.

COMMON ORDER

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XXIII Addl.City Civil & Sessions Judge
& Special Judge (PCA), Bengaluru.