

(2024) 11 KAR CK 0032

Karnataka High Court At Bengaluru

Case No: Criminal Appeal No. 2079 Of 2024

V Muniraju

APPELLANT

Vs

State By Udupi Town Police
Station, Represented By S.P.P.
High Court Building, Bangalore -
560001

RESPONDENT

Date of Decision: Nov. 15, 2024

Acts Referred:

- Indian Penal Code, 1860 - Section 120B, 149, 406, 420
- Karnataka Protection Of Interest Of Depositors In Financial Establishments Act, 2004 - Section 9

Hon'ble Judges: Shivashankar Amarannavar, J

Bench: Single Bench

Advocate: Sudhakar Reddy G S, B. Laxman

Final Decision: Allowed

Judgement

Shivashankar Amarannavar, J

1. This appeal is filed by the appellant "accused No.10 praying to set aside the order dated 26.09.2024 passed in Spl.C.No.93/2018 by the Principal

District and Session Judge/Special Judge, Udupi, whereunder bail application of this appellant "accused No.10 sought in respect of crime

No.23/2015 of Udupi Town Police Station for offences punishable under Sections 406, 420, 120-B read with Section 149 of Indian Penal Code

(Hereinafter referred to as "IPC" for brevity) and Section 9 of the Karnataka Protection of Interest of Depositors in Financial Establishment Act

(Hereinafter referred to as "KPIDFE Act" for brevity) came to be rejected.

2. Heard learned counsel for the appellantâ€" accused No.10 and learned High Court Government Pleader for respondent -State.

3. Learned counsel for the appellant â€"accused No.10 would contend that the appellant has been granted anticipatory bail in CrI.Misc.No.86/2018 by

order dated 22.03.2018 by the Principal District and Sessions Judge, Udupi and he has complied conditions. Thereafter, he has not served with

summons and therefore, he could not appear before the Special Court in Special Case. The appellant â€"accused No.10 undertakes to appear before

the Special Court on all dates of hearing. The appellant â€" accused No.10â€™s bail application has been rejected only on the ground that other

accused has failed to appear and if he is released on bail it is not possible to secure other accused. Learned counsel for the appellant â€"accused

No.10 submits that he is only agent in Mytri Plantation. The reasons assigned by the trial Court for rejecting bail is not correct. With these grounds, he

prayed to allow the appeal and grant bail to the appellant â€"accused No.10.

4. Per contra, learned High Court Government Pleader for the respondent â€"State would contend that the appellant â€"accused No.10 who was

granted anticipatory bail, did not appear before the Special Court inspite of issuance of summons and NBW. He has been secured by executing NBW.

He submits that his absence caused delay in trial of the case. Considering the said aspect, the Special Court has rightly rejected his bail application.

With these, he prays for dismissal of the appeal.

5. Having heard learned counsels, this court has perused the impugned order and materials placed on record.

6. The appellant â€"accused No.10 has been granted anticipatory bail by the Principal District and Sessions Judge, Udupi in CrI.Misc.No.86/2018 by

order dated 22.03.2018 in Crime No.23/2015 of Udupi Town Police Station registered for offences punishable under Sections 406, 420, 120-B read

with Section 149 of IPC. The said anticipatory bail has been granted at the crime stage. The appellant â€"accused No.10 has complied the conditions

imposed in the said order. After filing the charge sheet, the case has been registered against the appellant â€" accused No.10 in Spl.C.No.93/2018. In

the said Special Case, NBW has been issued against this appellant â€" accused No.10 and his presence has been secured by executing the said NBW

and he is in judicial custody. The Special Court is not right in rejecting the bail application on the ground that other accused have not secured and if he is granted bail other accused cannot be secured. This appellant "accused No.10 has been granted anticipatory bail and therefore, he is entitled to grant of bail. The appellant "accused No.10 has undertake to appear before the Special Court on all dates of hearing. The appellant "accused No.10 has made out grounds for setting aside the impugned order and grant of bail.

7. In the result, the following

ORDER

The appeal is allowed.

The impugned order dated 26.09.2024 passed in Spl.C.No.93/2018 by the Principal District and Session Judge/Special Judge, Udupi, is set aside. The appellant "accused No.10 is granted bail in Crime No.23/2015 of Udupi Town Police Station (pending in Spl.C.No.93/2018) subject to the following conditions:

- i. The appellant "accused No.10 shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees one Lakh only) each with one surety for the likesum to the satisfaction of the Special Court.
- ii. The appellant "accused No.10 shall not threatened the prosecution witnesses.
- iii. The appellant "accused No.10 shall attend the Court on all dates of hearing unless exempted and cooperate in speedy disposal of the case.