
Sharanabasappa Vs The State of Karnataka

Criminal Petition No. 100107/2014

Court: Karnataka High Court (Dharwad Bench)

Date of Decision: Feb. 4, 2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) â€” Section 439#Penal Code, 1860 (IPC) â€” Section 409, 460, 461

Hon'ble Judges: K.N. Phaneendra, J

Bench: Single Bench

Advocate: Basavaraj Karedddy for Sri K.L. Patil, Advocate for the Appellant; V.M. Banakar, Addl. State Public Prosecutor, Advocate for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

K.N. Phaneendra, J.

Heard learned counsel for the petitioner and learned Additional State Public Prosecutor for respondent - State.

Perused the records.

2. The brief factual matrix that emanate from the records are that, the petitioner herein Sharanabasappa S. Meti was working as Chief

Administrative Officer in Dharwad Institute of Mental Health and Neuro Sciences, which is an Autonomous body. It is alleged that a sum of Rs.

3.00 crore was sanctioned by the Central Government to the account of the said institution for its development. The petitioner was working as in-

charge Chief Administrative Officer during that time, under whom one N.V. Jogalekar, Assistant Administrative Officer, Smt. P.K. Shaila, Office

Superintendent and R.S. Patil, F.D.A. were working. The petitioner was supervising all the acts in the said institution. In this backdrop, it is alleged

that for the year 2011-12 the audit report has been submitted, wherein, it was found that a sum of Rs. 87,92,463/- has been mis-appropriated.

The complainant, who is the successor of petitioner, in fact has lodged a complaint after receiving the audit report. On these allegations and on the

complaint lodged by the concerned Chief Administrative Officer, the police have started the investigation. It is not disputed that the accused -

petitioner was arrested on 10.12.2013 and after some investigation he was remanded to judicial custody. At present he is in judicial custody. The

petitioner has approached the Sessions Court for grant of bail. The learned Sessions Judge has dismissed the bail application on the ground that the

investigation is in progress and the Investigation Officer has to trace out the other persons who are involved in the alleged offences, and therefore,

the custodial investigation by the police is absolutely necessary. I do not understand what is the necessity for keeping this particular person in jail

for custodial investigation by the police. All other persons who have involved in the commission of the offence are also the public servants. Till this

point of time the stage of the investigation is not known and also that all the other accused persons are arrested or not. For the purpose of arresting

those persons the custody of this person, in my opinion, is not necessary. The offence alleged against the petitioner herein is u/s 409 of I.P.C.

Though the offence is punishable up to life imprisonment, but it may also extend to ten years and fine. When it is specifically stated that the

petitioner is a public servant then there are no chances of he fleeing away from the justice. However, this Court can exercise jurisdiction u/s 439 of

Cr.P.C. to release the accused on bail by imposing some stringent conditions. In this context, the learned counsel for petitioner has cited a ruling of

the Apex Court reported in - Sanjay Chandra Vs. CBI, .

The Hon"ble Supreme Court, in fact, has observed that-

The Court has to exercise balanced approach, at the time of granting bail subject to certain conditions, rather than to keep individuals under

detention for an indefinite period, liberty also given to CBI to seek cancellation/modification of bail, if appellants violate conditions imposed on

them.

The Court is conscious of the fact that the accused are charged with economic offences of huge magnitude. The Court is also conscious of the fact

that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, the Court cannot lose sight of the fact that the

investigating agency has already completed the investigation and the charge sheet is already filed. Therefore, their presence in the custody may not

be necessary for further investigation. The appellants are entitled to the grant of bail pending trial on stringent conditions.

3. In that case also the public money and service was involved due to the commission of offence under Sections 460, 461 of I.P.C. and also other

offences. The Hon"ble Supreme Court while enlarging the petitioners on bail has imposed some stringent conditions. In view of the above said

circumstances, in my opinion, petitioner being a public servant is entitled to be enlarged on bail with certain stringent conditions. Hence, I pass the

following:

ORDER

Petition filed u/s 439 of Cr.P.C. is hereby allowed. Consequently, the petitioner shall be released on bail, subject to the following conditions:

i) Petitioner shall execute a personal bond for a sum of Rs. 1,00,000/- with two solvent sureties for a likesum to the satisfaction of trial Court.

ii) Petitioner shall not indulge himself in hampering the investigation or tampering the prosecution witnesses.

iii) Petitioner shall mark his attendance once in 15 days on every Sunday between 10 a.m. and 5 p.m. before the Investigating Officer, till filing of

the charge sheet or for a period of three months, whichever is earlier.

iv) Petitioner shall attend the Court on every date of hearing without fail, unless prevented by any genuine cause.

v) Petitioner shall not leave the Country without prior permission of the jurisdictional Court, till the case registered against him is disposed of.